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REPORT

OF THE

Special Joint Taxation Committee

OF THE

83rd Ohio General Assembly

December 11, 1919

COLUMBUS, OHIO:
THE F. J. HEER PRINTING CO.
1919

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PREFACE.

The special joint committee on taxation in submitting herewith its recommendations to the general assembly for the purpose of increasing the depleted revenue stores of the state and its political sub-divisions, has no disposition to arouse a sympathetic reception for its program by a recital of the tremendous difficulties encountered. Our only purpose in presenting this voluminous report is to afford the general assembly and the interested public an opportunity to glean therefrom an idea of the existing fiscal conditions and the course of reasoning followed, which have led to the conclusions herein presented.

The work has been arduous and exacting. There has been a decided reluctance to increase the already onerous tax burden and the committee has been mainly inspired by a sense of necessity for increased revenues in order that the normal functions of our government be maintained and nourished.

Much valuable assistance has been rendered the committee in its labor by interested citizens, inspired by a sense of devotion to our public institutions of government. When request was made of these to lend their assistance and experience to the committee, a hearty and unselfish response was made, that must be characterized as most refreshing. To these, a grateful acknowledgement is made.

Public officials, state, county and municipal, have been most helpful. Without exception they have rendered suggestions and advice of inestimable value.

Specialized assistance has been called to the aid of the committee and the value of this help has been so marked, that we despair of impressing the public with its incalculable worth. Professor Harley L. Lutz, of Oberlin College, was drafted into the service of the committee as economic advisor. He was dispatched to make a special study and survey of the operation of the income tax in the states of Wisconsin, New York and Massachusetts. His report based upon his investigations is found in the appendix to this report. In all of the deliberations of the committee, his advice and suggestions have been found most valuable and helpful. The tedious task of preparing this report has been left largely in his hands and those interested sufficiently to give it careful study should be the best judges of the thoroughness and soundness of his work.

Upon the organization of the committee, Professor Clarence D. Laylin of the Ohio State University and L. D. Johnson, were selected as legal counsel. Professor Laylin has had long years of experience with taxation statutes, as an attache of the Attorney General's office. Mr. Johnson has been engaged in the general practice of law for years and during a recent administration served as assistant Attorney General. Both of these gentlemen have a broad grasp of affairs generally speaking and a comprehensive understanding of the magnitude of the public problem of taxation. We have no intent of engaging in fulsome praise but their patient and constant adherence to the problems of the committee is worthy of a higher degree of appreciation than mere words can convey.

The greater part of this report has been prepared under the pressure incident to the opening of a legislative session. Every effort has been made to check and verify the figures presented, but some clerical inaccuracies doubtless remain. Equal care has been taken with all other statements of fact made in the report but it is possible that some errors remain notwithstanding these precautions.

The committee in presenting its conclusions, once more wishes to convey its appreciation of the sympathetic attitude of all those who have an understanding of its problems. The only ambition that it has in discharging its duties to the best of its ability, is that there may be herewith presented some remedy that will obviate the necessity of lowering our governmental standards.

FRANK C. PARRETT,
Chairman.

CHAPTER I.

Organization, Personnel and Procedure of the Committee.

The special joint taxation committee of the 83rd general assembly of Ohio was created by Senate Joint Resolution 6, which was adopted in January, 1919. The text of this resolution is as follows:

83D GENERAL ASSEMBLY, REGULAR SESSION, 1919.

S. J. R. NO. 6.

MR. PARRETT.

JOINT RESOLUTION

Relative to the Appointment of Special Joint Taxation Committee.

WHEREAS, It is apparent that there will be a serious deficit in the state, county and municipal revenues, the estimated amount being $7,000,000; and;

"WHEREAS, The municipalities of the state are seriously embarrassed by the lack of sufficient funds to operate their normal and necessary activities; and

WHEREAS, It is the manifest duty of the present General Assembly to provide means whereby these conditions may be met; and

WHEREAS, It is imperative that taxation and revenue measures be enacted and in effect prior to taxation day in April, 1919, that the welfare of the state of Ohio may be properly cared for; therefore

Be it resolved by the General Assembly of the State of Ohio:

That four Senators, not more than two of whom shall belong to the same political party, appointed by the President of the Senate, and four members of the House of Representatives, not more than two of whom shall belong to the same political party, appointed by the Speaker thereof, shall constitute a Special Joint Taxation Committee to prepare and introduce in the House and Senate such bill or bills as they may agree upon that will give the people of this state revenues to operate the governmental functions. Any or all of bills prepared by said Committee shall be introduced in the Senate and House of Representatives by such Committee, and any rules of the Senate or House or joint rules of the Senate and House, shall be hereby suspended to permit of the introduction of such non-partisan taxation measures.

Said committee may, in its discretion employ a stenographer and expert authorities on matters of taxation and such other help as may be deemed necessary to assist in the performance of its duties. To carry out the provisions of this resolution this committee is authorized to hold meetings while the legislature is in session to spend from the money heretofore or hereafter appropriated

to discharge the expense of legislative committees, such sum or sums as may be necessary, same to be paid by the state treasurer on the warrant of the state auditor, which warrant shall be issued upon filing itemized expense accounts from time to time, the same to be approved by the Chairman and Secretary of the committee.

Pursuant to the terms of this resolution which was later amended to include six members from each body, the following members were appointed to the committee. From the Senate:

William Agnew, of Cuyahoga County.
Wallace W. Bellew, of Hamilton County.
Thomas M. Berry, of Allen County.
John E. Holden, of Warren County.
Frank C. Parrett, of Clinton County.
Frank E. Whittemore, of Summit County.

From the House:
Rupert R. Beetham, of Harrison County.
R. M. Billingslea, of Butler County.
Milton Clark, of Warren County.
Edward J. Hopple, of Cuyahoga County.
Huston T. Robins, of Ross County.
Francis M. Thompson, of Franklin County.

The committee met on January 22, 1919, and organized by electing Senator Frank C. Parrett Chairman and Francis M. Thompson secretary. Professor Clarence D. Laylin of Ohio State University and Hon. L. D. Johnson of the Columbus bar were retained as counsel to the committee. Professor H. L. Lutz of Oberlin College was later called in as economic advisor. Miss Minnie Rogers was employed as stenographer to the committee.

A vast amount of time was spent during the first session of the general assembly in conducting hearings and discussing financial matters with the large number of persons who appeared before the committee. Many of these appeared in their individual capacity while a considerable number spoke also as the representatives of various organizations. The following partial list of the organizations which were thus represented will indicate the great variety of viewpoints which were given expression before the committee in this way.

The Chambers of Commerce of Cincinnati, Cleveland, and various other cities.

The Cleveland Bankers' Committee on Taxation.
The Cleveland Association of Building Owners and Managers.
The Farmers Defense League.

The Conty Auditors' Association.
The Ohio Association of Real Estate Boards.
The Ohio Library Association.
The Ohio State Automobile Association.
The Ohio State Tax Commission.
The Ohio State Grange.
The Ohio Taxpayers League.
The Taxpayers Association of Hamilton County.

Various Boards of Education, Chambers of Commerce, Financial Directors and cities and Superintendents of Schools were also heard.

In the preparation of each measure the committee has given careful attention to the best developments of other states. Those persons who have been especially qualified to assist with the preparation of the various measures undertaken by the committee have been invited to conference when the respective drafts were in preparation. We feel, thetrefore, that we have had the benefit and advantage of a large amount of expert opinion and advice from these many sources, and we advance our program with the greater confidence because of this valuable assistance in its formulation.

After the adjournment of the first session of the assembly a subcommittee was appointed to continue the study of the problems before the committee and with instructions to prepare first drafts of bills for the consideration of the whole committee. The members appointed to the subcommittee were:

Chairman, Frank C. Parrett.
Senator William Agnew.
Mr. Huston T. Robins and Mr. Francis W. Thompson.

The sub-committee has held frequent sittings since the latter part of the summer, and after its work had been practically completed the entire committee was called in conference upon the measures prepared. These bills come now to the general assembly as the result of the whole committee's deliberations.

In this report we have undertaken first to outline the general financial condition of the state and its subdivisions. In Chapter III we have discussed certain features of the present system of raising revenue, giving special attention to those features which are involved in the recommendations which we are herewith presenting. In our final chapter these recommendations are discussed briefly and the committee's drafts of the proposed bills, together with a report on the operation of state income taxes, are given in an appendix.

CHAPTER II.

The Financial Situation.

When the 83rd General Assembly of Ohio convened in January, 1919, it was generally conceded that the problems of finance and taxation were among the most important that were to occupy its attention. These problems had been forced so prominently into the foreground by a chain of sequences that extended far back into Ohio's financial history. It is not necessary to the plan of this report to analyze in detail the background of the difficulties which had arisen, for that would lead us into a general discussion of the vast problem of financial control and administration, a field which really lies outside the jurisdiction of the present committee. It is sufficient here simply to point out that a final solution for the complex and extensive problems of public finance may be found only, if ever, when all phases of these problems are considered in their proper relation. A consideration of revenue problems alone is not sufficient for the proper solution of the financial puzzle; the control of expenditures and the proper correlation of outgo and income are equally essential. In other words, the whole problem of budgetary development is involved in any final settlement. In our judgment the whole question of a general and efficient budgetary system is of such paramount importance that we commend it in all earnestness to the attention of the General Assembly. Genuine and effective economy in the public business can only be assured by the most careful consideration of the means by which proper control over both expenditures and revenues can be set up.

We have been duly appreciative of the meaning and scope of this large task of financial reorganization. The present committee was created, however not for the purpose of studying the broader problems here involved, but rather with a view to the consideration of one angle only of this general problem, namely, the improvement of the revenue laws of the state; and such suggestions bearing upon other angles of the problem as may appear in this report or as may be found in the measures herewith recommended are included only because of their connection with the main work of the committee. It has been our desire, nevertheless, to correlate our own work with any that may hereafter be done for the future improvement of the financial structure of the state, and we have therefore earnestly sought to prepare our constructive proposals in such

a manner as will make them worthy of permanent incorporation into a more general program of financial reform.

The members of the General Assembly will readily recall the financial situation in the state at the time the session convened. The state treasury was believed to be on the verge of a serious shortage; a number of municipalities and school districts were facing bankruptcy, and in some instances actual defaulting of interest and salary payments had occurred. These conditions became worse as the session advanced and with more thorough discussion of the situation by the committee it became increasingly evident that two lines of improvement must be pursued. The first was the immediate enactment of temporary relief measures, and the second was the development of more permanent plans for the prevention of similar conditions in the future. The plans for temporary relief were in time agreed upon and appropriate legislation enacted. Under these laws many localities have proceeded to take advantage of the special measures authorized and it is to be presumed that in most instances something adequate temporary relief has been secured. Your committee therefore has participated in the two-fold task of formulating the preliminary legislation and of presenting, after more extended study, other measures from which more adequate and lasting results might be expected. A legislative recess until December 1st was taken in order to allow the committee the time necessary for this work. Since the form which the committee's recommendations might take would naturally depend upon the constitutional provisions relating to taxation, the date for the opening of the adjourned session was arranged to permit the classification amendment to be voted upon by the people.

It will be recalled that when the legislature convened the status of the constitutional provisions relating to taxation was in some doubt. At the election of 1918 the people had voted approval of two amendments to Article XII, Section 2 of the Constitution, relating respectively to the classification of property for taxation and the exemption of mortgages. The question of the consistency of these provisions had been raised, and until an answer had been given by the Supreme Court it was of course impossible to go forward confidently with tax legislation. The Court's decision against the classification amendment left the whole matter of popular policy in confusion and in order to secure a final expression of the public will it was agreed to re-submit the classification proposal at the next regular election. In the mean time the committee proceeded with such legislative measures as were already clearly authorized by the constitution, including the inheritance tax, the income tax and the graduated automobile license tax. The inheritance tax was enacted before the session adjourned because of the necessity of providing at the earliest possible moment a revenue resource which would

approximately replace the liquor license tax. The remainder of the committee's program is submitted herewith. The classification amendment was decisively defeated and we have interpreted this vote to mean that in so far as a property tax is levied in Ohio it shall be levied by a uniform rule. The proposed bills which form an appendix to this report have been adapted as nearly as may be, accordingly, to the general requirements of the constitutional rule of uniform taxation and in the comments upon these measures which occur later will be found some explanation of the features in which such adaption has been undertaken.

The problems to which the committee has directed its attention have been revenue problems. As indicated above, we have not attempted to meet the demand for larger revenues by an inquiry into the methods of spending those revenues already received, nor by attempting to pass upon the propriety of the purposes for which any administrative unit has been spending its income. From every quarter has been coming the pressure for greater revenue resources and our task has been to provide these larger resources. The intensity of the need has not been exactly measured, although some data have been compiled which show the volume and the growth of state and local expenditures. These data were useful in reaching a decision upon the important question of the number and the scope of the new revenue proposals to be offered. An effort has also been made to appreciate the effect of each change suggested upon the general revenue situation in order that a proper balance aong the several parts might be maintained.

The importance of this consideration will be clear from an illuustration. The principal source of local revenue is the direct tax on property. It has been decided that the uniform rule shall be retained and that all property shall be taxed at its full value in money. Accordingly, we have given some attention to the laws relating to the effective enforcement of the uniform rule. The urgency of other revenue measures for local use, such as the income tax, will depend upon the effectiveness of these provisions. It is impossible to forecast with any exactness the yield of a more strictly enforced general property tax, but this much is clear from the experience of other states — as long as the uniform rule remains the income tax must be regarded as a minor and auxiliary revenue resource rather than as a major feature of the tax system. Its yield, therefore, will undoubtedly be less under such a view of its proper position and use.

But another angle of the problem arises. The constitutional provision which authorizes income and inheritance taxes requires that at least 50% of the proceeds of such taxes be returned to the municipal corporations and townships in which the taxes originated. What shall be done with the other 50%? All or any part of it may either be returned

locally or retained by the state. A proper settlement of this question involves a consideration of the relative needs of the state and the local districts, and raises numerous questions of general policy as to the financial responsibility for the performance of public functions. If the state retains it, how does this affect the state's revenue in comparison with state needs? The addition of even a moderate revenue from such a source to the present income of the state forces a consideration of many problems which are not apparent at first thought in the simple question of the relation of the property and income taxes. We have endeavored constantly to weigh considerations of this sort in working out our recommendations. Almost every other subject with which we have dealt has given rise to similarly far-reaching complications, the only clue to which is be found in the general principle of a properly diversified and properly balanced revenue system.

A satisfactory answer to the question of the new revenue resources that must be developed can only be made from a comparison of the present income and needs of the state and its subdivisions. In the effort to ascertain approximately the extent of this need for additional revenues we have considered the financial condition of the state, the municipalities and the schools. The evidence which has come to us from all sources appears to establish conclusively the case for larger revenues, if many important functions of the state and the local governments are not to fail of proper realization.

I. The State Finances.

The general situation with regard to the state finances is thus set forth by the Auditor of State in an advance copy of his report for 1919:

STATEMENT OF ACCOUNTS WITH ALL STATE FUNDS FOR EACH FISCAL YEAR FROM 1913 TO 1919 INCLUSIVE.

Fiscal Year.	Total amount appropriated by the General Assembly. All funds.	Total disbursement during the fiscal year. All funds.	Total receipts during fiscal year. All funds.	Excess of disbursements over receipts for fiscal year. All funds.	Excess of receipts over disbursements for fiscal year. All funds.	Total cash balance at end of fiscal year. All funds.
1913	$24,929,754 90	$14,707,624 46	$15,578,471 60	.....	$870,847 14	$5,535,698 83
1914	29,347,632 38	18,345,251 65	20,544,539 15	.....	2,199,287 50	7,734,985 83
1915*	24,374,544 09	11,886,009 06	11,541,588 84	$344,420 22	.....	7,390,565 96
1916	30,822,544 19	19,695,952 33	19,175,760 29	520,142 04	.....	6,870,423 92
1917	30,515,788 88	21,293,020 88	20,910,626 83	382,394 05	.....	6,488,029 87
1918	39,623,867 05	22,827,295 61	23,695,073 31	.....	870,226 91	7,355,807 60
1919	39,345,420 56	25,934,104 33	25,476,682 23	457,422 10	.....	6,898,385 50

*1915 shows seven and one-half months caused by change of end of fiscal year from November 15th to June 30th.

NOTE: — The large cash balance at the end of each fiscal year does not represent a surplus—simply a total balance of the several funds. A large portion of the balance in all the funds are obligated for specific purposes. Both receipts and disbursements include the transactions of the rotary fund.

The Auditor's comments upon a similar table in his report for 1918 are worth repeating. He said:

"It is gratifying to note that for the first time since 1914 the receipts of the state government the past year have exceeded the disbursements. This fact is liable to be misleading unless we make proper analysis of the source of the increases and determine what state funds are benefited.

"The abnormal increase of $415,314.70 in the sale of automobile tags adds nothing to the General Revenue Fund of the state.

"The change of the Liquor License Law, providing that licenses shall be granted in May instead of November, caused additional revenue of $258,050.00 to be collected in the fiscal year 1918 that under the old law would not have been received by the state until during the fiscal year 1919.

"The remarkable increase in the grand duplicate of the state last year of eight hundred and fifty million dollars by reason of the self-listing plan and abnormal war valuations augmented the receipts of the Highway, University and Common School Funds for which the state makes a direct tax levy of 45-100 of a mill. This increase of state revenue from direct taxation the past year amounted to $282,003.61.

"These are some of the reasons why state receipts have increased more rapidly than usual the past year, but these additions, with the exception of a part of the Liquor License Law increases, do not go into the General Revenue Fund from which the General Assembly makes all appropriations for the running expenses of the state government.

"The General Assembly, when it meets in January, 1919, will have as the most important duty of both Senate and House the appropriation of the necessary funds, to conduct the state government for the biennium beginning July 1, 1919, and ending June 30, 1921. If the General Assembly realizes, as it should, that in this crisis of all the ages, prudence is a patriotic duty, it will pay no attention to any book balances that the records of the auditor's and treasurer's offices may show, but confine its appropriations strictly within the limits of the estimated revenues for each year that will come into the state treasury as follows:

"Estimated state receipts from all sources from July 1, 1919, to June 30, 1920, — $22,880,000.

"Estimated state receipts from all sources from July 1, 1920, to June 30, 1921, — $23,780,000.

"I warn the General Assembly not to appropriate in excess of these estimates, unless by legislation it provides additional revenues that will accrue to the funds from which appropriations in excess of estimated receipts are made and be reasonably certain that such new revenues will meet all increases. The constitution of the state, Art. XII, Sec. 4, says: 'The General Assembly shall provide for raising revenue sufficient to defray the expenses of the state, for each year.' It is unconstitutional to make appropriations in excess of estimated receipts."

The warning conveyed in the last paragraph quoted is of especial significance when we compare columns 1 and 3 of the above table. We find that there has been regularly appropriated an amount far in excess of the actual receipts for the fiscal year, which means that the state has been able to keep afloat financially only by reason of the fact that a

large volume of appropriations has lapsed each year. The margin of appropriations over disbursements was unusually wide in 1918 because of the interruption to normal outlays occasioned by the war. It is natural and even necessary that these losses be made good by greater activity with the return of peace and the auditor's warning of the danger of relying on the continued lapsing of so large a volume of appropriations is very timely.

In addition to the estimates for the present biennium which are contained in the auditor's report, above quoted, we have been furnished with some estimates which were prepared under the direction of the governor's office. Four estimates of the receipts were made, on the following bases: The average increase in receipts for the five full fiscal years 1913-1919 (omitting the nine months from November 15, 1914, to June 30, 1915); the average increase for the four years 1915-1919; the average increase for the three years 1915-1918; and an estimated increase in revenues on the basis of the gain in corporation tax receipts in the first four months of the fiscal year 1919-20 over the receipts for the corresponding months of the preceding fiscal year. The estimates of expenditures were the same throughout. A tabulation of these figures is presented in Table II.

TABLE II — ESTIMATED RECEIPTS AND DISBURSEMENTS OF THE STATE GOVERNMENT FOR THE BIENNIUM, 1919-21.

I. Expenditures.		
1919-21 Appropriation Bill	$52,973,494 16	
Sundry Bill (est.)	450,000 00	
Institution for feeble minded	650,000 00	
Miscellaneous special bills (est.)	500,000 00	
Total already voted		$54,573,494 16
Additional Appropriations Required (estimated)		
Board of Administration:		
1 Institution for feeble minded	$800,000 00	
1 Institution for insane	800,000 00	
Extra cottages for feeble minded	592,000 00	
Extra land, hospital for insane	83,000 00	
Increased operating expenses	1,548,000 00	
Increase for institution engineers	70,000 00	
Increase for bindery workers	8,000 00	
Increase for Universities	600,000 00	
Increase for other State Services	3,500,000 00	
Increase in operating and maintenance expense for Ohio State University	180,000 00	
Total additional appropriations		$8,181,000 00

Unlapsed appropriations	$11,443,606 53	
Less estimated lapses of	4,000,000 00	
		7,443,606 53
Grand total including estimates		$70,198,100 69

II. Receipts

(a) On the basis of increase in the average total receipts for the full fiscal years 1913-1919:

Balance July 1, 1919	$6,898,385 50	
Receipts	50,622,826 87	
Inheritance tax (estimated)	3,000,000 00	
		$60,521,212 37
Deficit for biennium		9,676,888 32
Deficit for each year		4,838,444 16

(b) On the basis of increase in the average total receipts for the four full fiscal years 1915-1919:

Balance July 1, 1919	$6,898,385 50	
Receipts	53,707,962 99	
Inheritance tax (estimated)	3,000,000 00	
		$63,606,348 49
Deficit for biennium		6,591,752 20
Deficit for each year		3,295,876 10

(c) On basis of the increase in the average receipts from corporation taxes during past three years, 1916-18, and excluding liquor tax:

Receipts	$6,898,385 50	
Receipts	48,819,000 00	
Inheritance tax (estimated)	3,000,000 00	
		$58,717,385 50
Total receipts		$58,717,385 50
Deficit for biennium		11,480,715 19
Deficit for each year		5,740,357 59

(d) On basis of increase in corporation taxes at same rate as the increase for the first four months of fiscal year 1919-20, over the same period in 1918-1919:

Balance July 1, 1919	$6,898,385 50	
Receipts	54,536,947 91	
Inheritance tax (estimated)	3,000,000 00	
		$64,434,333 41
Deficit for biennium		5,763,767 18
Deficit for each year		2,881,883 64

A saving will be effected to the general revenue fund of the difference between the receipts from the common school, university and sinking fund levies, and the amounts paid out for sinking funds and in aid of common schools. On the 1918 figures this saving would be approximately $1,700,000. Deducting this amount from the above deficits, the annual deficit would be:

Under	(a)	$3,138,444 16
"	(b)	1,595,876 10
"	(c)	4,040,357 59, and
"	(d)	1,181,883 64

The additional appropriations for which estimates are presented do not include an allowance for the building program of the various state supported universities. Figures have been compiled which indicate that the student enrollment of these institutions will increase rapidly during the next ten years, and it is calculated that an adequate program of building for the purpose of accomodating this increase in enrollment would require for all of the state universities, at least $1,000,000 annually during the ten-year period.

Some items in the list of estimated additional expenditures deserve explanation. These items were supplied to the committee as constituting a part of the enlarged program of public activities upon which the state had embarked, or should embark. By including them in the above table we are not to be understood as giving them unqualified endorsement, nor are we even undertaking to pass upon the general questions of state policy which are here involved. We submit them as the estimates which have been offered to show the scope of the financial program which appears to confront the state, and our calculations here are based upon the assumption that such a program may be expected to gain general support.

The additional outlays for the care of feeble-minded are suggested by the evidence which is readily available concerning the number of such persons now at large in the state. It is obvious that proper provision for the segregation and care of these wards of the state is a public obligation which the state of Ohio has not adequately discharged in the past. Of the 10,000 feeble-minded persons in the state, only about 3,000 will be provided for in the above proposed institutions, when completed. The increased operating expenses of the board of administration represent in part the increased costs of operation due to wage and salary advances now in effect, and in part contemplated expansion. The latter portion comprises some $309,000 of the total. The proposed increases

for the universities and the other state services are for the purpose of making salary advances, and for university operating expenses.

These estimates of revenues fall into two groups, the first three being based on experience and the fourth on an estimated rate of increase in the yield of the corporation tax. The basis for this expected increase is the anticipated effect of the law enacted by the present general assembly providing for the organization of corporations with no par value stocks. If we consider the experience of the past few years we find the deficit ranging from $1,181,883 to $4,040,357, the difference being accounted for by the loss in receipts in 1916 as compared with 1914 and 1917. The most favorable showing, on the basis of experience, is the four year period preceding 1919, but this calculation included the return from the liquor license tax. In the third estimate the yield of this tax was excluded, as it will be in the future, and the estimated deficit rises to $2,881,883, even after the inclusion of the yield of the new inheritance tax, the state's share of which for the biennium is estimated by Tax Commissioner Cassidy to be $3,000,000. On the other hand, it seems doubtful if the assumption which is made in the fourth estimate can be sustained. The rate of increase, 11.07%, rests on a comparison of the four months July 1, to Nov. 1, 1919, with the corresponding months of 1918, that is to say, with the four months of our most strenuous war effort and of our most rigorous restriction on business activity not connected with the war. For this reason the margin of increase thus shown appears to be in excess of that which might reasonably be expected over a two-year period of post-war development. Furthermore, there is no certainty whatever that the new capital stock law will prove ultimately as popular as the first few months under it might indicate. The estimated receipts are probably higher than the actual receipts will prove to be. On the showing here made it seems perfectly safe to say that the state faces an annual deficit during the next two years of from $1,000,000 to $4,000,000, on the basis of the yield which may reasonably be expected from the revenue laws now in force, and without considering at all the building requirements of the universities.

This situation makes it worth while to analyze in somewhat greater detail the principal sources of the state revenues. Such an analysis for the five full years 1913-1918, is presented in the following table. In 1915-1916 the fiscal year was changed from Nov. 15th to June 30th and figures for the nine month period are omitted.

TABLE III—ANALYSIS OF THE SOURCES OF STATE REVENUE, 1913-1918.

Source	1913	1914	1916	1917	1918
Capital stock tax on domestic corporations	$1,661,123	$1,837,938	$2,102,597	$2,198,338	$2,582,702
Fees from foreign corporations	358,296	478,584	597,796	580,088	564,621
Excise taxes on gross receipts	3,093,746	3,348,220	3,203,785	3,771,528	4,694,286
Liquor licenses	2,508,192	1,639,053	1,852,828	1,609,913	1,763,644
Fees from insurance companies	1,295,660	1,451,001	1,483,825	1,721,619	1,869,655
Collateral inheritance tax	134,894	112,753	186,444	331,698	287,549
Totals	$9,051,911	$8,867,594	$9,527,275	$10,193,184	$11,762,457
Automobile Dept.	$396,504	$990,578	$1,201,259	$1,745,046	$2,160,370
State Levies for Sinking Fund, Schools and Highways	2,878,365	6,252,191	3,238,689	3,351,074	3,633,077
Total taxes	$12,226,780	$16,110,363	$13,967,223	$15,289,304	$17,555,904
All other receipts.	3,351,691	4,430,173	5,108,877	5,621,672	6,139,169
Grand Totals.	$15,578,471	$20,544,439	$19,176,100*	$20,910,976	$23,695,073

* As in Auditor's Report, 1916, p. 67.

This table was compiled from the material published in the annual reports of the state auditor. The principal tax revenues are shown above and the first total represents the yield of these taxes. The collections of the automobile department and the levies for irreducible debt, universities, common schools and highways are shown below, since these collections are not for general state use but are required to be devoted to the purposes for which the lyevy was made. The automobile license tax is also collected for the specific purpose of road construction and maintenance. The group "all other receipts" includes the vast mass of miscellaneous fees, income of state institutions, interest on deposits of state funds, and an amazing variety of receipts, large and small. It is rather surprising to find that the tax revenues of the state compose no larger proportion of the total state income than here appears. It is hardly surprising, however, in view of this fact to discover that the condition of the state's revenues is believed by many to be serious. There seems

to be good ground for such belief when we see that only a little over half of the total appropriations voted for the year 1918, as shown in Table I, was actually raised by the indirect taxes imposed in this year. The question may very well be raised whether the present sources of state revenue are really adequate, and sufficiently elastic, for the proper conduct of those functions which the state has already undertaken. If we compare the actual receipts and disbursements we find that in only one year since 1914 have the former exceeded the latter, which means that the present sources of state revenue are so inelastic as to make impossible even so slight an adjustment for 1918 as would be involved in covering an operating deficit of less than half a million dollars. In view of this condition, we cannot avoid the conclusion that the present system of providing the state's revenues from certain segregated sources is breaking down.

This breakdown becomes the more apparent if we turn to consider the matter of an expansion of the state's activities. Such problems as greater school relief, more general and efficient health supervision, and more extended road construction are pressing for larger appropriations, and rightly so. The last of these may be met from the enlarged receipts of the automobile tax, but the other two have no such select means of support. Since the present state revenues are evidently incapable of paying the present cost of state administration without excessive dependence upon the uncertain quantity of lapsed appropriations, it is conclusive that no marked increase of outlays for any purpose, however meritorious, may be undertaken without a material expansion of the state's revenue resources.

There doubtless are many points at which some extension of the state's activity might be highly desirable. In the estimates of the additional appropriations which would be required for the present biennium some of these more pressing claims upon the state were suggested. We have considered in this report the problem of school relief only, and we have presented below some arguments which we believe to be conclusive in favor of a greater measure of state support for the school system. We have recommended that the State's contribution for this purpose be derived from a direct levy on property and the above evidence of the limitations of the present state resources has moved us to recommend this plan, since the amount that would be required adequately to preserve and develop our school system is clearly far in excess of anything that may be expected from the existing state resources. In fact the requirements for this purpose are doubtless much in excess of the state's probable share of the income tax although if the available 50%

of this tax is devoted to these purposes the amount that must be secured from a direct levy will be correspondingly reduced.

Moreover, it is quite certain that further drains upon the general revenue fund would be quite undesirable in view of the financial situation disclosed by our analysis to this point. The extent to which the support of education and public highways has been dependent upon this fund, notwithstanding the existence of levies for these purposes, is shown in the table presented herewith, which gives the yield of the state levies and the sums actually paid out on account of these activities.

TABLE IV—STATEMENT OF THE RECEIPTS AND DISBURSEMENTS ON ACCOUNT OF THE STATE LEVIES, 1913-1918. (1915-1916 omitted.)

RECEIPTS.

Source	1913	1914	1916	1917	1918
Common School Fund	$2,138,337	$2,188,434	$207,059	$409,575	$440,043
University Fund.	526,309	604,157	347,107	688,832	746,799
Highway Fund...	.....	3,260,757	1,126,235	2,234,050	2,422,052
Sinking Fund....	213,719	218,843	9,455	18,617	20,183
Total Receipts.	$2,878,365	$6,252,191	$3,238,689	$3,351,074	$3,633,077

DISBURSEMENTS.

Common School..	$2,500,371	$2,570,116	$2,569,949	$2,604,209	$2,657,156
University	619,677	2,296,280	2,212,837	2,619,422	3,068,810
Highway	738,173	1,868,890	2,847,954	3,107,299	3,491,419
Sinking Fund....	319,576	298,327	321,910	322,125	322,606
Total Disbursements.....	$4,177,797	$7,013,613	$7,952,650	$8,663,155	$9,492,991
Excess of Disbursements	$299,432	$861,422	$4,713,961	$5,312,081	$5,859,914
Deduct receipts of Automobile Department ...	396,504	990,578	1,201,259	1,745,046	2,160,370
Net Burden on General Revenue Fund through reduction of state levies.....	$902,928	$129,156*	$3,512,702	$3,567,045	$3,699,544

*The year 1914 shows a gain.

The receipts of the Automobile Department are deducted on the assumption that these funds were collected for the purpose of road construction and maintenance.

The significant fact disclosed by this table is the increasing burden upon the general revenue fund. It throws much light upon the series of deficits in column 4, table I. The reduction of the state levies in 1914 did give some greater leeway to localities within the inner tax limits, and in the intervening years relief of this sort has been greatly needed.

II. Local Finances.

a. *Municipalities.*

The rate of increase in the cost of local governments in recent years is very well shown by the following table, prepared by the state tax commission. This table shows the taxes levied by the various local levying districts in 1913 and 1918, with the amounts and percentages of increase.[1]

TABLE V.

Tax levies by	*1918*	*1913*	*Increase*	*%. Increase*
Counties	$28,950,245	$19,232,387	$10,717,858	58.58%
Townships	10,023,932	4,963,080	5,060,852	101.96%
Schools[2]	44,668,635	25,980,162	18,688,473	71.93%
Cities and Villages	36,365,267	23,904,135	12,461,132	52.15%
Totals	$120,008,079	$73,079,764	$46,928,315	64.21+

The tax commission, in commenting upon this table in 1918, was inclined to hold that these figures established the elasticity of the tax limit law, and that a sufficient rate of local growth was possible under it. But the tax commission has compiled other figures for this committee which appear to reveal the contrary state of facts. (See Table VI below.) While some evidence of local extravagance has been presented to the committee, it is impossible to decide out of hand that the above increases represent the price that is being paid for unwarrantably extravagant local government, and without a very extensive investigation into the standards of local administration we are unwilling to accept such an explanation of the increase. We are convinced that a thoroughgoing reform of local administration would be a slow process in which substantially the whole body politic must interest itself before significant results may be expected. In the meantime the public needs exist and must be met, and there is significant evidence to show that the above cost of local government, great as it was in 1918, and great as was the

[1] State Tax Commission, *Report*, 1918, p. 15.

[2] Does not include state common school fund, interest on irreducible debt, nor aid to weak schools.

increase over 1913, was considerably below the amounts that were estimated to be necessary by the various local officials who prepared the budget estimates. The following table is compiled for the purpose of comparing the amounts asked for by the authorities of certain districts and the amounts allowed by the budget commissioners in the process of bringing budget estimates within the requirements of the tax limit laws.

TABLE VI.

TABLE VI.—EXCESS OF THE AMOUNT ASKED TO BE LEVIED OVER THE AMOUNT ALLOWED BY THE BUDGET COMMISSIONS IN THE VARIOUS CLASSES OF SUBDIVISIONS IN SEVENTY COUNTIES OF THE STATE:

	Excess including levies by vote of the people.	*Excess excluding levies by vote of the people.*
County Budgets	$2,273,674	$2,674,627
Township Budgets	547,798	559,548
City Budgets	12,615,006	12,972,950
Village Budgets	900,295	921,634
City School Budgets	7,878,785	14,285,789
Village School Budgets	1,141,380	1,604,994
Special School Budgets	128,803	186,440
Township School Budgets	971,153	1,173,163
	$26,456,894	$34,379,145

It is estimated that the remaining eighteen counties will increase the total approximately 12%.

Comparative financial statistics are rather scarce in Ohio, and the committee has made little effort to compile material of this sort. The subject was discussed extensively at our hearings, and the facts were presented at length and with great force by many of the local representatives who appeared before us. In view of the information obtained in this way we have not undertaken to collect a large mass of statistical data upon this subject but we do venture to present one table, compiled from the United States Census Reports on the Financial Statistics of Cities, which shows the governmental cost payments for the nine cities in the state having a population of thirty thousand or more in 1909.

TABLE VII—TOTAL GOVERNMENTAL COST PAYMENTS IN THE NINE OHIO CITIES WHICH HAD A POPULATION OF 30,000 OR MORE IN 1909.

Class of Outlay.	*1909*	*1915*	*1918*	*Increase 1918 over 1909.* *Amount.*	*%*
General Government...	$3,102,812	$3,565,425	$4,088,615	$ 985,803	31.8
Protection to person and property	5,316,816	5,778,785	6,742,443	1,425,627	26.8
Health Conservation...	326,811	611,790	1,085,211	758,400	232.6
Sanitation	1,660,878	2,407,496	2,803,529	1,142,651	68.8
Highways	2,512,427	3,922,803	3,843,123	1,330,696	52.9
Charities, Hospitals, Corrections	1,414,417	1,652,869	2,133,659	719,232	58.8
Education	7,486,409	10,486,258	12,181,950	4,695,541	62.7
Recreation	475,710	758,125	650,755	175,045	37.0
Miscellaneous	229,663	197,152	288,704	59,041	25.7
General[1]		902,058	1,099,233	.....	....
Total $22,525,953		$30,282,761	$34,937,222		

The aggregate expenditure for governmental cost purposes of these nine cities rose from $22,574,763 in 1909 to $30,168,239 in 1915, and to $34,937,222 in 1918, or 33.5% and 55.6% respectively.

Such a table reveals the presence, in our municipal communities, of a very potent factor which is every where operating to increase public expenditure. This factor is the effort toward a higher level of well being. The percentage increases show that the older governmental activities, such as the general administration and the protection to life and property, have expanded least rapidly of all the forms of public outlay here shown. The greatest relative increases have occurred in those forms of public activity which now count much in the promotion of the general well being, such as health conservation, sanitation, education, improved highways, charitable and hospital relief and recreation. Enforced retrenchment in public outlays now means the reduction of these beneficent social activities and an inevitable retrogression toward a lower plane of civilization.

Although some evidence of waste has been presented to the committee, we cannot consider this a sufficient explanation of the problem; nor is it an adequate solution of the revenue difficulties now confronting Ohio cities to advise them to live within their incomes. Waste and extravagance are always bad and should be vigorously opposed everywhere; but it would be a far easier task even for the cities to live within

[1]Note — The last item, "general," is not separately reported in 1909.

their incomes if the incomes were larger. These increases in municipal outlays have come notwithstanding all of the resistance offered by the taxpayers, the restrictions on the tax levies, and the pruning by budget officials. Some waste there has been, in spite of all efforts against it, but a democratic government is quite likely to be wasteful. There has doubtless been some expansion of the functions of municipal government, although the census classification does not permit detailed comparisons. Without question too there has been an expansion of the administrative organization. The aggregate population of the nine cities increased from 1,529,345 in 1909 to an estimated total of 1,978,339 in 1918, while the aggregate area increased from 117,789 acres to 170,513 acres in the same time. Without any change at all in the character of the public functions performed, the physical growth of these cities would have caused an increase in the cost of government, and the tasks of supplying these larger areas with the services of government probably meant a relatively greater cost as the area and the population increased.

Finally, the figures given above and similar data which might have been compiled, reflect the general advance in prices, an advance which has affected the purchasing power of public as well as private incomes. In view of these facts we cannot escape the conclusion that much of the recent growth of expenditures has been inevitable, and that we are destined to see a continuation of this growth. It is futile to oppose it, for the maintenance of organized social life must and will go on. We ought by all means to provide a sufficient volume of revenue resources to insure that the advantages and benefits of modern government shall be paid for as they are received and enjoyed, and to take such measures as are possible to prevent an undue proportion of their cost being shifted to future generations.

b. *Schools.*

1. The Common School System.

"Religion, Morality and Knowledge being necessary to good governments, schools and the means of education shall forever be encouraged." Ordinance of 1787, Art. III.

It has always been a part of Ohio's tradition, a part of which we are often most proud, that in the first document under which an organized government was set over the territory from a part of which the state was later formed, such an estimate had been placed upon the value of education as a fundamental necessity of good government. The noble sentiment expressed in the Ordinance of 1787 is familiar to every citizen for it has been perpetuated in the constitution from the very beginning of the commonwealth. The constitution of 1851 reaffirmed this

high principle and there was written into that document as a mandate to the general assembly for the realization of this ideal, the following language:

"The general assembly shall make such provision, by taxation or otherwise, as, with the income arising from the school trust fund, will secure a thorough and efficient system of common schools throughout the state * * *".

It becomes the task of this committee, in the course of its study of the financial condition of the state's school system, to inquire into the degree to which this ideal is being realized. We are not attempting, as a result of this inquiry, to propose a re-organization of the school system, for this would carry us beyond our proper jurisdiction as a committee on taxation. We are very glad to be able to say that we do not believe a general reorganization is called for, in order to secure full compliance with the constitutional ideal of a thorough and efficient common school system throughout the state. In many respects the citizens of Ohio have a right to be proud of their schools. It is a matter of common knowledge, however, that there are many points at which improvement is greatly needed if our schools are to continue to deserve our pride. We shall confine our discussion here to the financial aspects of the school problem, for this is the key to the situation. Financial weakness is the cause of so many of the defects which competent observers now find in our school system that neither the committee nor the general assembly may longer neglect it. Many persons who are expertly familiar with the Ohio schools have appeared before the committee and many others have contributed to our knowledge on this subject. We are summarizing here the case for further school support as it has been presented to us through these various and diverse channels. In this part of our discussion we are referring to the grade and high schools as the state common school system, as distinguished from the institutions of higher learning which are also a part of the state educational system.

The first fact to be emphasized is that the cost of school maintenance and operation has been steadily and rapidly increasing. Convincing evidence on this point has already been presented. The total local taxes for school purposes rose from $25,980,162 in 1913 to $44,668,675 in 1918, or 71.93%. The total cost of education in the nine largest cities in the state increased 62.7% from 1909 to 1918. And it is as true of the school as of other local administrative units — as shown by Table VI above — that the amounts required, in the judgment of those responsible for their management, were considerably in excess of what could be allowed under existing restrictive laws.

The reasons for this rapid increase in the cost of education are obvious enough. To begin with, the total enrollment in both and grade and high schools has been increasing steadily. The total enrollment in the former increased 14.3% from 1890 to 1918 and in the latter 266.9% in the same time. As in the case of the cities these mere physical increases have involved a steadily mounting charge for building and other equipment, and in operating expense. The especially rapid increase in the high school enrollment during this period is particularly significant in this connection, for it has forced school districts to provide a large number of high school buildings, which differ materially from the grade buildings in the type of construction and character of equipment required. It is a fact, too, that the growth of high school enrollment has carried many districts past the capacity of their original buildings within the past ten years, and a very large volume of new school building construction has thus been forced upon them. We have just been passing through the turning point of the original building capacity and in the new construction the effort has been made to anticipate the future requirements for twenty years or so, in many instances, but this all adds to the present outlays for interest and sinking funds, as well as for maintenance and operation. In many other cases, of course, the new buildings were replacements which were necessary to care for the existing school enrollment.

Another reason for the rising cost of education has been the ever broadening curriculum of the schools and especially of the high schools. As new subjects are added, such as agriculture and the physical sciences upon which scientific agriculture rests, physical education, and other new subjects, new and specialized equipment and a more highly specialized teaching staff become necessary.

This expansion involves increased cost, finally, at another point, namely, the salaries paid to teachers. It has always been difficult to provide an adequate supply of properly qualified teachers, and with rapidly rising living costs these difficulties have been multiplied enormously. No other group of workers have stayed by their jobs in the face of rising living costs more loyally and patriotically than the school teachers; and it is hard to find a group of workers in the community of whom greater advantage has been taken, as a reward for their unselfishness. It is absolutely essential that the standards of compensation in teaching be advanced, even if this does mean higher school expenses, for in no other way can the school protect themselves against the competition of other and better-paid fields of employment.

Here again we seem to hear some saying that the schools ought to be required to live within their incomes and that the garment should be

cut to fit the cloth. But we must remind all persons so minded that in a peculiarly vital and significant sense the educational garment may not be so rigorously tailored. Our educational standards have been set for us — the pattern of this particular garment was laid out in 1787 — it is that full measure of education, thorough and efficient, reaching out to every part of the state and to every citizen of the state, which will promote good government and the safety and security of the state. A mean and stingy school financial policy will produce a larger crop of citizens who are not intellectually capable of the duties of citizenship and who are, in consequence, a menace to the security of all.

It is a simple matter to ascertain whether proper funds are now available, in all parts of the state, to provide and maintain that measure of educational facilities which in all fairness must be regarded as the minimum, and in so doing it will be possible to determine whether the state as a whole is adequately facing and discharging its responsibility for the proper advancement of the school system. The amazing revelations of the literacy tests applied to the men called under the selective draft are, in a way, sufficient to establish the case. Of all the men examined, 700,000 in the nation at large were illiterate. General Glenn writes as follows concerning the results of the army tests as applied to Ohio men:

> "In Ohio 41.2% were illiterate according to this test, 28% of these being negroes and the balance, or 13.2%, being white; and in Ross county I know that there were 1100 men rejected for this cause."

This means that a considerable proportion of Ohio's citizens who went forth at their country's call to fight for democracy had been deprived of the most elemental privilege which our organic law guarantees to every citizen.

It is our especial concern, in this report, to examine the state's share of responsibility for this condition, in order to determine what shall be the state's obligation in its correction. Our policy of school management has been a curiously divided one in the past. The chief sources of revenue for school purposes have been local, and we have not hesitated to permit, even to encourage, a vicious gerrymandering of school districts with no regard whatever to the relations of needs and resources in the great multitude and variety of districts thus set up. The state has contributed for local use a sum equal to $2.00 for each enumerated youth of school age, and, more recently, an additional amount approximately equal to 50% of the salaries of the district and county superintendents. This school fund, which is the extent of the state's contribution to common school support, is distributed to all districts without regard to the needs of the several districts. In 1906 the policy of

additional aid to so-called weak school districts was inaugurated. This aid has been meager enough, but the conditions which were to exist in a district before such aid could be obtained were so hard as to exclude many localities the schools of which were really in serious need of additional support in order to operate properly. The state has never pursued an effective policy of state support of schools, for the aggregate disbursements under both of these funds has never exceeded $3,000,000.

The policy of more or less complete local support of schools is in reality a very unfair method of distributing the cost of modern education. The relative cost of a certain standard of education is just as great in the poor or weak district as it is in the strong one. All districts are required to bring their children up to this minimum standard, because these children, all together, from the weak and the prosperous districts, shall one day be the state. Men are no longer bound for life to the township of their birth, and with the mobility of modern life the children from the hill counties join the workers and the electorate of the large cities. The responsibility for a proper educational minimum for all citizens cannot longer be avoided by the state, for even with much higher levies for school purposes than are now possible under the law, it would be very difficult in some districts to provide the necessary educational equipment and teaching force. These districts are simply too poor to provide, unassisted, that educational minimum which all citizens of the state should possess.

The situation in the weak school districts illustrates the dangers and the injustice of our present policy of excessive reliance upon local revenues for school support. Sections 7595-7597 of the General Code define a weak school district as one which is unable to pay its teachers a salary of $60 per month, for eight months, after the maximum legal school levy has been made, three-fourths of which shall have been assigned to the tuition fund. No such district shall be entitled to aid unless the number of pupils of school age in the district is at least twenty times the number of teachers employed therein.

These are pitifully low standards, but in 1918 there were 245 school districts in 27 counties which could not comply with them and which received state aid. These districts, with three exceptions, would all lie south of a line drawn from New Philadelphia through Columbus to Batavia. In many of these districts levies of from six to eleven mills had been made and yet state aid proved necessary. In some cases this means that the fault was with the district boundary lines, a defect which the general assembly has had abundant opportunity in recent years to correct. But in many other instances these facts emphasize the defects of our policy of local responsibility for the great bulk of school cost.

Furthermore, there are many other school districts in the state which have been seriously handicapped financially, but which were beyond the absurdly low minima set up in section 7595. This section preserves the salary standards of a generation ago, and many districts which in reality are little stronger than the state aid districts have had to pay more than $60 or get no teachers. Even in the case of some of the larger cities, where living costs are higher, the proportion of the school budget that has necessarily been spent on salaries, in order to have teachers at all, has reduced the amounts available for the building program to such a point that very unsanitary and unwholesome arrangements have been made for a part of the school population. Basement rooms, portable rooms, overcrowded rooms, inadequate heating, lighting and toilet facilities—shortcomings of these and other sorts have been freely cited to us by those who have appeared in behalf of the school system.

Finally, in all districts the schools have suffered especially under the burdensome restrictions imposed by the tax limit law of 1911. We have discussed below the very obvious defects of this measure but we must point out here one further significant aspect of it. The state has not only set up the policy that the resources of the district shall bear practically the whole cost of education; it has at the same time imposed severe and rigid limits on the tax rates which may be levied on the property of the district for school purposes. Theoretically the city government and the school board are entitled to five mills each. But practically this is seldom possible for both at the same time because certain state levies and the county levies must come out first. If either the city council or the school board creates debt without proper approval the interest and sinking fund charges for such issues are also deducted and the revenue of the other unit is thereby impaired. City councils, as the more active political bodies, are more likely than school boards to indulge in such issues, and the latter are obliged to accept the cuts thereby involved.

Moreover, notwithstanding all of these negative or restrictive aspects of the state policy, there has been a development of the other side of the general educational policy, which is the state control of the standards of the school system. We have had an increasing extension of state control over the standards of sanitary and other equipment, of the standards of building construction, of the qualifications of teachers, of the content of curriculum, and various other phases of school operation. For instance, the changes in the school building code since the Collinwood disaster have added at least one-third to the cost of building; there is now in operation a sliding scale of professional training required for certification of teachers which by 1921 will require at least one year of such

training of all candidates for county certificates. Agriculture, physical training and other specialized subjects are also prescribed. In other words the state has been steadily adding to the cost of education by this advance in the level of its standards but it has been restricting, *pari passu*, the financial ability of the school districts. Between the upper and nether millstones the school system is being crushed.

The remedy is simple enough. We do not deprecate the advance in the standards of instruction and equipment. On the other hand we welcome them as the signs of progress. But as these standards advance it must be made possible for the school administrative authorities to keep pace with them in securing larger funds for school maintenance and operation. In some instances this may be done by the reorganization of school district lines; in others a greater freedom to authorize additional levies for school purposes would be desirable and would be gladly welcomed. We have recommended the extension of the policy of S. B. 187 by incorporating it in our school relief bill. But in addition to these measures there must be for all school districts a greater recognition of the state's obligation for the proper support of education. The obligations of citizenship are statewide and the training for citizenship must be statewide. Our plan of school relief contemplates the recognition of the state's share in this responsibility by the provision for a levy, uniform throughout the state, which shall provide a fund for the better support of common schools. The details of this plan are presented below.

2. The State Universities.

The higher institutions of learning are suffering from the general financial difficulties also, though the reasons, obviously, are not at all points the same as in the case of the common schools. The principal sources of university revenues have been the legislative appropriations, supplemented by such income as may have been received from land grants and other sources. Nominal fees are charged to students but it has always been a part of our university policy that the benefits of higher education shall be afforded to the citizens of the state without tuition charge. In view of the condition of the state finances it may be proper to consider a change in this policy but we are not now recommending it.

The university needs are threefold — First, higher salaries for the teaching and administrative personnel, an absolute necessity unless we are content to see all of the best men of our state university faculties migrating to private employment or to other institutions. The very alarming exodus from the Ohio State University last summer indicates that this possibility is always real when salaries are inadequate, and a moment's reflection will convince any thinking person that such a condition pro-

duces a frame of mind that is disastrous to morale and efficiency. The second need is for increased provision for operation and maintenance. This requirement is only natural in view of the general increase in operating and maintenance costs everywhere. The state has a considerable capital investment in its university plants and the best educational interests of the state, as well as the dictates of a selfish business policy, require that proper provision be made for the maintenance and operation of these plants. The third need is the capacity for expansion. Estimates have been submitted to the committee based on population and school enrollment data, to show that by 1929-30 Ohio colleges and universities will be obliged to provide for 37,000 students. Of this number it is estimated that from 13,000 to 16,000, or 35% to 43%, will be enrolled in state institutions. Many of the privately endowed colleges and universities are already near the limits of their enrollment capacity and they cannot raise these limits materially without very great increases in endowment. The state must, therefore, prepare to assume the steadily increasing burden of providing higher education to all who are fitted for it and ambitious to obtain it. The rapid increase in high school enrollment is the best confirmation of these calculations, and we are urging that a broad, generous view be taken of the educational future of the state.

Various estimates of the outlays required have been presented. The following summary of needs for all state-supported institutions was prepared for the committee by President O. M. Hughes, of Miami University:

TABLE VIII. PROBABLE BUDGET OF HIGHER EDUCATION IN OHIO DURING THE NEXT TEN YEARS.

	Personal Service and Maintenance	*Buildings*	*Total.*
1919-20	$2,240,393	$115,741	$2,356,134
1920-21	3,375,000	1,000,000	4,375,000
1921-22	3,625,000	1,000,000	4,625,000
1922-23	3,875,000	1,000,000	4,875,000
1923-24	4,125,000	1,000,000	5,125,000
1924-25	4,375,000	1,000,000	5,375,000
1925-26	4,625,000	1,000,000	5,625,000
1926-27	4,875,000	1,000,000	5,875,000
1927-28	5,125,000	1,000,000	6,125,000
1928-29	5,375,000	1,000,000	6,375,000
1929-30	5,625,000	1,000,000	6,625,000

President Hughes adds, in comment upon the figures here presented:

"The above figures seem large. They are. But so is OHIO! So are the sums our states and communities are called upon to expend year after year, to pay the price of inefficiency, untrained leadership, and an uninformed electorate. Ohio in 1929-30 should have a population of six million people. This enormous outlay for education will represent almost exactly one dollar per capita! Study the tables and estimates in detail, and it is apparent that these figures are not extravagant. They are extremely conservative. They represent the least Ohio can do and maintain her proper position in the educational activities of the nation. Our people believe in higher education; they certify to that by the way they are taking advantage of it. Are they not willing to pay for what they want?"

Officials of Ohio State University have submitted a projected budget for the next five years which calls for outlays for personal service and maintenance only, rising from $1,432,030 in 1919-20 to $2,635,416 in 1924-25. This does not take into account the building program, to which reference is made above.

The principal suggestion which has been offered by the university officials for providing these increased funds is that some specified or designated sources of income, or amounts of income, be set aside for university use. The necessity of depending absolutely upon the appropriations made biennially necessarily compels a short-run view of their problems and bars that careful long-range elaboration of policy which is conducive to true economy of management.

III. The Increase of Local Debts.

The most striking, and in some ways the most convincing evidence of the hiatus between local revenues and expenditures is found in the very rapid increase of local debts in recent years. The aggregate local debt for all purposes since 1900 as reported by the auditor of state is shown in the following table:

TABLE IX. TOTAL LOCAL DEBT FOR CERTAIN YEARS SINCE 1900.

Year.	*Total Local Debt.*
1900	$96,193,513
1910	187,574,322
1915	356,028,968
1918	434,047,798

This rate of increase is indeed startling and with all due allowance for the misleading character of the figures the local debt situation may be regarded as critical. We have pursued a policy of comparative indifference to the rate of debt creation, but of rigid restriction upon the ability of a community to pay off its debts, and it is small wonder if the public credit of such a community is impaired in the outside financial

centers. To the extent that public credit is thus impaired this condition would be reflected in a discrimination against its bonds which would increase the burden on the local taxpayers.

It is not to be understood, however, that the whole of the above local debt constitutes a burden upon the taxpayers, and in this respect we have characterized the figures as misleading. The real extent of the debt burden would be better shown if a distinction were made between the debt which is self-sustaining and that which is not. That is, we should be able to separate the bonds issued by self-sustaining public utilities and on account of special improvements to property, from those which constitute a direct charge against the general tax revenues. Further, a correct debt analysis would show the amount of bonds which had been issued for the purpose of funding floating deficits and for refunding earlier issues. The latter would be a burden on the taxpayers of course, unless they were refunded by a public utility, but we cannot form an accurate judgment of the bond-issuing habits of a community without knowing more of the circumstances than are given us in the above figures, or than is presented by the auditor of state in his discussion of the subject of local indebtedness in his annual report for 1917. It is not our purpose to defend the local debt situation; on the contrary, we believe the situation to be sufficiently serious to warrant more effective measures being taken to control debt issue and to provide for the reduction of the present volume of outstanding debts. We do believe, however, that a distinction should be set up that will show the difference between self-sustaining and non-self-sustaining debt, and that the true measure of the local debt burden is the pressure of the latter class. We are recommending the submission of a constitutional amendment for the control of debt issue, and discussion of the details of this plan is found in chapter IV below.

CHAPTER III.

Some Features of the Existing Revenue System.

A complete analysis of Ohio's present revenue system is unnecessary in the present connection, and especially so since the committee has not undertaken a general reorganization of that system. It will be of advantage, however, to comment briefly upon certain outstanding features, the selection of which is governed somewhat by the recommendations later to be presented. In a certain sense these may be said to be the weaker phases of our tax system. At any rate they are the points at which it has appeared to be most obviously of advantage to begin the work of reconstruction.

I. The Separation of Revenue Sources.

The basis of the Ohio Revenue system is of course the general property tax. During the second half of the 19th century both the state and the local subdivisions drew their main support from this source. The administrative system was decentralized and therefore weak, and such serious inequalities had come to exist in the distribution of the state tax levy on property that when, toward the close of the century, the plan of separating the sources of state and local revenues appeared, it was welcomed as the final solution of all fiscal difficulties and problems. As this plan was worked out in Ohio, the property tax was relegated to the local units and the state direct levy on property was greatly reduced and finally abandoned as a source of revenue for general state purposes. On the other hand the state built up various other sources of revenue, chief of which have come to be the different excise and other taxes on corporations, the inheritance tax, and until recently, the liquor license tax. The principle of separation of revenue sources has gained very general acceptance throughout the state and we readily grant the value of every argument which might be advanced in favor of continuing this policy. We are not prepared at this time to present an exhaustive argument either for or against the plan which has become such an integral part of state policy, and in what follows there is, therefore, no thought of going further than to suggest certain rather obvious considerations which bear on the case. In the present judgment of the committee these considerations point toward a modification of this policy, and in this respect the committee's proposals are perfectly con-

sistent with earlier acts of the legislature, acts which can only be interpreted as an admission of the unsatisfactory operation of the separation plan. The Hite Road Law of 1913 is a case in point. Our. brief analysis of the state revenues confirms this view of the effects of separation upon the state's finances.

The first consideration to be noted is that separation of sources has not solved automatically all of the administrative problems of the assessment and equalization of property. As noted above the difficulties earlier encountered in the assessment of property, especially real estate, and its equalization at ten-year intervals for the distribution of the state tax, were so great as to appear impossible of proper solution. But the support of the state government from indirect taxes has not relieved the state of the task of supervising the assessment and equalization of property. After the separation program was in operation the state created a state tax commission and endowed it with extensive powers of supervision and control over local assessors, and in one experiment the entire process of local assessment was placed under central control. **The present legislature has extended the commission's powers in the assessment of real property and the decisive defeat of the proposed classification amendment can only be interpreted to mean a popular willingness to see this administrative control strengthened and extended, especially in the direction of securing a more substantial assessment of personal property.** It appears from this that Ohio has really been obliged to develop precisely the same type of central tax administration that has been developed in those states which have not embraced the policy of separation of sources. It follows, too, that with such administrative development, the effect of local competitive under-valuation and evasion can be quite successfully neutralized so far as undesirable shifting of tax burdens is concerned. The experience of Wisconsin and Massachusetts in distributing equitably a fairly heavy direct state tax is conclusive on this point. There need be no hesitation, therefore, over the committee's plan for school relief which is presented below, on such grounds as might have been urged twenty years ago, for we have in the meantime set up adequate administrative machinery for the control of those defects in the state levy.

A further point for consideration relates to what may be called. for want of a better name, the fiscal adequacy of the program of separation, especially from the standpoint of the state revenues. By this we mean to raise the question whether the indirect revenues upon which the state is at present so largely relying are sufficiently adequate and elastic to permit the state to assume certain obligations which are clearly in

the nature of state functions. The analysis of the state revenues which was presented above makes fairly certain a negative answer to both tests —adequacy and elasticity. While the receipts from the indirect taxes have increased notably in recent years they are not sufficient today to cover the present cost of the state's functions to to permit of an increase of the scale on which the state is now supporting public education and other important activities. It is useless to expect the state will be able to expand its activities or to conduct its present operations on a more ample scale from the existing indirect sources of state revenue.

As little may be expected of these resources in the way of elasticity. The yield of the taxes on corporations is a resultant of two factors, the rate and the volume of business, of capital stock or other basis of levy. Frequent adjustments of rates would prove very unsatisfactory to the state as well as to the taxpayers concerned, and if experience in other states is of any significance, it will not always be an easy matter to work out equitable readjustments of this sort. The volume of business or of capital stock is not within the state's power to control, and the yield of such taxes is, in consequence, relatively inelastic. It cannot easily be expanded to permit that broadening of the state's fiscal activities which normal growth and varying conditions often require. In the effort to relieve the state of certain evils inherent in the older administrative system it now appears fairly clear that the sources of state revenue were unduly restricted, while there proved to be no escape from the administrative obligations involved.

It does not appear possible to supplement the existing sources of state revenue by other indirect taxes which will give to the state's revenues that amplitude and elasticity which are essential to progress. The two taxes to which attention would naturally be turned in this connection are the inheritance and income taxes, but it must be remembered that the constitution expressly provides that at least 50% of the proceeds of these taxes must be returned to the districts of origin. Further, while a marked increase may be expected from the inheritance tax as revised by the present general assembly, it must be said that there is a general tendency to over-rate the fiscal possibilities of these taxes. Through a period of years the inheritance tax becomes a fairly dependable revenue producer, but its yield in a given year is highly uncertain and until experience has been accumulated it is impossible to foretell the returns from the present inheritance tax. There is a belief in some quarters that the income tax will not prove notably successful when imposed in addition to the general property tax, yet this situation confronts us at the present time in the use of the income tax in Ohio. Your committee urges, therefore, that the whole situation be faced with an open mind

and that no pre-conceived or academic preference for the policy of separation be permitted to interfere with any further modifications of that policy which may be rendered necessary in the present emergency.

II. The tax limit law.

Sections 5649-1 to 5649-6 inclusive contain the provisions for the limitations of tax rates. These sections were originally enacted in 1910 (101 O. L. 430) in connection with the general revaluation of the state which was undertaken in that year. The depreciated basis of valuation, which had become universal during the period of ineffective local administration of assessments, had naturally produced very high tax rates, amounting in some instances to 50 or more mills on the dollar. The decennial reappraisal of real property in 1910 was made the occasion of a thorough revision of assessments, and while this revision was in process the state tax commission was created and given supervisory jurisdiction over the work of local assessors and boards of review. It replaced also the very inefficient state board of equalization and in this capacity it was required to equalize the real estate assessments, which were then to stand for four years instead of ten as had been the case since 1860. It was a natural and necessary part of this sweeping change in the basis of valuation and in the administrative procedure that the level of tax rates which had become customary under the old regime be reduced to a plane of conformity to the changed valuations of property. The original tax limit law of 1910 was not enacted until after the assessment of that year was practically completed, so that it was of little influence in determining the basis of assessment. As originally drawn its limitations were not entirely clear and administrative features were lacking, and substantial amendments were added in 1911. A budget commission, so-called, was set up in each county but this term is really a mis-nomer, for the budget commissions neither prepare local budgets nor assist in their preparation. Their sole function is that of securing technical compliance with the provisions of the tax limit law, and to that end they are empowered to "adjust the various amounts to be raised so that the total amount thereof shall not exceed in any taxing district the sum authorized to be levied therein."

The wisdom of the general policy of tax rate reduction in connection with a general advance in assessed valuation cannot be questioned. Some sort of legislation to secure this result was absolutely essential if confiscatory tax levies and local extravagance were not to follow. The above sections represent, from this point of view, a very serviceable method of protecting the taxpayer during the transition from a very low and unequal basis of valuation to a much higher and probably more

equitable valuation. There was no especially inherent merit in the particular tax rates adopted as the limits, and the principal criticisms which may now be offered against the whole tax limit plan of 1910 rest upon the tendency to regard as of enduring worth and significance a measure which was really designed to effect certain temporary ends. The specific criticisms which are here brought against the Smith tax limit law are not intended so much as criticisms of the general principle of tax rate limitations as of the particular form of tax limitations embodied in sections 5649-1, ff.

1. **In the first place we desire to emphasize the fact that there is no inherent reasonableness in the particular rates set up as the limits. The proper basis for the selection of these figures in 1910 and 1911 was that such maximum rates, applied to the increased valuations of those years, would produce approximately the same public revenue as the old rates had produced on the old valuations.** These rates were only an approximation at that time and it was considered necessary in 1910, for the purpose of further checking extravagance, to insert a schedule of aggregate revenue increases, whereby the total taxes levied for 1911 were not to exceed the total for 1910, plus 6% thereof for 1912, plus 9% thereof for 1913, and 12% thereof for any years thereafter. This schedule was removed in 1913 in recognition of its temporary character and this removal was in reality an admission of the temporary character of the whole scheme.

2. The interior limitations, as they are called, are arbitrary and very often produce serious injustice as among the various levying districts. Here again it now appears fairly clear that the limits of 5-5-3-2 mills for cities, school districts, counties and townships respectively, were not experimentally determined but were written into the law without regard to the requirements of these several administrative districts. Furthermore, certain levies which the state has imposed must be so included, as it must be also all interest and sinking fund charges on debts incurred without popular vote. Since the state levies, the county levy and the debt charges are really preferred claims within the ten-mill limit, it often results that the actual limit on school and municipal taxes is very much less than five mills each, and so these districts are made to suffer through no fault of their own. Nor can they, by the most careful management, avoid the restrictions which may thus be imposed upon the levies which the law apparently meant to authorize.

3. The method of controlling expenditures by a flat limitation applied to the whole state is too rigid, too mechanical, and has not really resulted in protecting the taxpayers. If the total tax rate of a district is not now in excess of the original limits it is a fairly good

indication that the activites of this district are not such as to require large expenditures. **A rigid, flat limitation on the tax rates to be levied by all districts assumes that the requirements of all districts are expending at about the same rate, and neglects absolutely the fact that those districts which are comparatively new but which are growing rapidly in population, such as the newer industrial centers, may have an entirely different scale of requirements which must be met speedily, than some of the older and more slowly developing communities.** It neglects, too, the vast difference between the requirements of rural and urban communities and seeks to set up a common standard of tax burden for all.

4. Further, the excessive emphasis upon tax rate limitations which has followed the exaltation of the Smith Law has led to a corresponding indifference to the facts relating to the creation of debts, when as a matter of sound financial practice the extremity of emphasis should be upon the **debt limit** rather than upon the **tax limit.** It has generally been found to be true that when debt limits and tax limits conflict the former yield first for the simple reason that people naturally prefer to postpone the day of payment and are inclined to take full advantage of such opportunities as are afforded them by weak debt limits. **The very rapid increase of local debts in Ohio in recent years has doubtless been due in part to the severe restrictions put upon the tax rates.** Not an inconsiderable part of the total represents funding bonds, issued to cover accumulated shortages in current funds for operating expenses. The wide margin of 5 mills for the interest and sinking fund charges of authorized debt issues, in contrast with the restricted total of ten mills for all operating expenses and unvoted debt charges is really an invitation to indulge in debt financiering. It has been a simple enough matter, as the practices of some municipalities have shown, to accumulate debts which represented the excess of operating cost over operating revenues obtainable within the 10 mill limit, and then to secure popular approval of the funding bonds on the ground that this was necessary in order to place the charges outside the 10 mill limit. Unless a municipality followed this course, there was no way of utilizing the surplus levying power up to 15 mills. It was very unwise to compel resort to deficit financing in order to secure permission to use this surplus, instead of being able to make use of it directly for revenue purposes. The present arrangement of the Smith law limitations puts a decided compulsion upon borrowing for current expenses. **We have reached the conclusion that it is**

of less significance that the tax rates be rigidly limited than it is that public debts be restricted.

But if greater emphasis is placed on the debt limits it means that less should be given to the tax limits, on the theory that it matters far less how much a community is spending provided it is paying its way as it goes, while it is of much greater importance to make certain that the present generation is not accumulating vast charges against posterity. One of the committee's recommendations is a plan for limiting the debt issues of various districts, and in our comment upon this plan below we have referred more fully to the significance of the proposal in connection with the general subject of tax limits

III. The Administration of the General Property Tax.

The defeat of the classification amendment at the recent election means the retention of the general property tax as the form of revenue system through which the great bulk of the public revenues for local purposes are to be collected. We have already stated our interpretation of the vote on this amendment, which is, that the people of Ohio prefer, while a property tax is used, to have all property taxed at a uniform rate. We have given considerable attention to the administrative questions involved and have obtained an expression of views from many persons whose suggestions might be of value to the committee. Our proposals for additional legislation which would be required to secure the attainment of this end are given below. Here it is our purpose to outline the administrative machinery of the property tax that we may understand the points at which this machinery appears to require improvement in order to function more effectively

a. *The Assessment of Real Estate.*

When the tax administrative system was overhauled, in 1910, a quadrennial reappraisal of real estate was provided for in lieu of the decennial revaluation which had been conducted since 1860. The county auditor was to provide the necessary maps and plat books for the local boards of assessors, and was to supervise their work (Sections 5571-5574). No quadrennial reappraisal was ever made under this law, which was replaced before the stated date of the first reappraisal by the Warnes Law, so-called, which set up a system of highly centralized tax administration. Under this law both real estate and personal property were to be assessed annually by centrally appointed deputy tax commissioners. After two years the centralized tax administration provided for in the Warnes Law was abandoned and the county auditor was made county assessor, ex officio, with general authority over the

assessment of all property. He was required to reassess real estate annually when so directed by the tax commission or when in his opinion such reassessment was advisable (Section 5548). A subsequent section of the same act gave the tax commission power to order a reassessment of either real or personal property in any district or subdivision thereof, when in its opinion such property had been unequally or improperly assessed (Section 5624-4). The commission's control over reassessments disappeared in the revision of the tax law in 1917, and in consequence no sufficient opportunity for its practical exercise ever arose. Aside from this temporary interjection of central control over the original assessment and reassessment of real property, sections 5548 and 5549 vested an undue discretionary authority with the county auditors and the boards of county commissioners and in consequence only isolated instances of reassessment of real property have occurred. The result of these various changes of policy has been that no general correction of real estate valuation has been made since 1910. It was felt early in the session of last winter that this administrative defect should be corrected and this policy the general assembly has already approved Senate Bill 146 places a greater responsibility upon the county auditor for the annual determination of the correctness of the assessed value of real estate, while it gives the tax commission more precise and definite authority than it has had heretofore in the initiation and control of the assessment and in the conduct of reassessments. The tax commission may now order initial assessments or reassessments of real estate in any taxing district, or in an entire county where this procedure is found necessary, or when it is petitioned for by 25 local taxpayers, a board of township trustees, or a village or city council. The auditor is specifically required to make such correction in each year as will maintain a full value assessment of real estate.

This hasty review of the recent changes in the methods of assessing real estate reveals a fluctuation between the principles of centralization and decentralization in tax administration. The present plan may be said to represent a fairly reasonable compromise. The county auditor is a locally chosen official but he is now subject to the supervision and control of the state tax commission. A check upon laxness or disinclination is thus assured while the beneficial elements of home rule are preserved. With the provision so recently enacted we feel that the administrative machinery for a proper listing of real property is fairly complete and in good working order, and that in so far as the application of the uniform rule to real property is concerned, we have already provided ample administrative facilities for a proper enforcement of this principle. The tax commission will doubtless require more adequate

financial support if it is properly to discharge all of the duties which are being placed upon it, and we recommend that larger appropriations for the employment of expert and clerical assistants be made.

b. *The Assessment of Personal Property.*

The changes of policy which have been made with respect to real estate have for the most part applied to the assessment of personal property also. The Warnes Law deputy tax commissioners were placed in charge of personal property assessments, but under the Parrett-Whittemore Law of 1915 the assessment of personal property was returned to the jurisdiction of the locally elected assessors. This act was nullified by the courts after one assessment had been made, and in 1917 the present system of a voluntary return was introduced. The taxpayers are now provided with the proper blanks by the county auditor and are required to make an independent tax return, under oath, uninfluenced in any way by the assessor, whose principal functions now appear to be that of administering the oath to taxpayers, of giving assistance in making the return when this service is requested, and of correcting the returns under the direction of the county auditor.

The essential feature of the present system of listing personal property is the utter absence of inquisitorial participation by the local assessor. The personal property returns are subject to further examination by the county auditor, who now possess the authority to supervise the assessors, to issue instructions to them from time to time, (Section 5367); to direct them to correct the returns (Section 5368); to require the appearance of any persons who may have knowledge of property not returned by any taxpayer; and to compel the production of books and papers in evidence (Sections 5398-5403).

Any person who refuses to appear and give testimony when summoned by the auditor is subject to like proceedings from contempt as witnesses in actions pending in the probate court (section 5403). On the basis of his findings in any such investigation Section 5401 specifically provides that the auditor shall proceed "at any time before the final settlement with the county treasurer to correct the return of the assessor and charge such persons on the duplicate with the proper amount of taxes." An examination of these sections would indicate that the county auditor already possesses ample authority to enforce the laws relating to the listing and assessment of property for taxation.

The General Code also contains an imposing list of powers which may be exercised by the state tax commission in the supervision of the assessment of property. (See Sections 1465-12 to 1465-27). Some of the more important of these are the authority to appoint agents who shall

have the right to inspect books, papers and other records of any company, firm, corporation, person, association or co-partnership subject to the laws which it is required to administer; to compel the production of these books, papers and other records; to appoint agents who shall have all of the powers of the commission in any investigation; to obtain information at the source from all persons or business concerns subject to laws which the commission is required to administer; to institute contempt proceedings in the probate courts; and to take the depositions of witnesses residing outside the state. In such investigations no witness shall be excused from giving evidence or testimony on the ground of self-incrimination; although he shall not be prosecuted for any penalty or forfeiture so disclosed except for perjury in so testifying. Effective operation of these provisions are also contingent upon more ample appropriations.

Necessity may be deemed to exist for legislation to connect more intimately the powers of the tax commission and of the county auditors in the assessment of property. We have no specific suggestions to make on the subject at this time, but we have the matter under advisement and may present recommendations at a later date.

IV. The Limitation of the Debt-Incurring Powers of the Local Subdivisions.

The need for more effective control over the debt-incurring power of the local units is best shown by an outline of the changes which have occurrred in the statutes relating to that subject. In the earlier acts which authorized the use of public credit by municipalities and townships no limits were set to the volume of debt that might be incurred for the specific purposes for which local units were authorized to borrow, nor was it considered necessary to set a curb upon the discretion of municipal councils and township trustees by requiring a vote of approval. (For example, see 76 O. L. 158, 1873.) The list of purposes for which bonds might be issued was broadened in 1893 (90 O. L. 229), and the idea of a restriction on the local borrowing power was distinctly repudiated in the following language, which occurs in section —— of the act:

> Nothing herein contained shall be construed as limiting or restricting any power to sell bonds for any of the purposes named in this section otherwise conferred by law; but no bonds issued for any of the above named purposes and in accordance with the provisions of this section shall bear a higher rate of interest than six percentum, payable semi-annually, or be sold for less than par".

The policy of simple restriction on interest rate and sale price was not developed further in the direction of effective limitation on the quantity of debt issued and outstanding until 1902, when the so-called Longworth act was passed (95 O. L. 318). This act authorized the issue of bonds by municipal corporations and townships for a list of specified purposes, and set up two further limits to the exercise of this authority:

1. The amount of debt which might be issued in any one year without a vote of the people was limited to 1% of the total assessed valuation of property for taxation.

2. The total amount of debt so issued which might be outstanding and unpaid at any time, was limited to 4% of the total assessed valuation of property. There was apparently no intention at this time to limit the amount of debt which might be created with the approval of the people. The percentages which were introduced as limits applied, in the original Longworth act, to the aggregate of bonds outstanding and unpaid. In 1906 a change was made which was proper enough in part, in that it based the limitation of debt upon the net indebtedness, which was defined as the difference between the par value of all outstanding bonds and the amounts held in sinking funds for their redemption. An outside limit of 8% was also introduced for all debt, whether issued with or without vote. (98 O. L. 65). This act was made the occasion, however, for an extension of the debt limits by the peculiar modifications which were introduced into the definition of "net indebtedness". It was provided that certain classes of bonds should be excluded from consideration in computing the volume of net indebtedness to which the percentages of 1%, 4% and 8% respectively should apply. The excluded classes were:

1. Bonds issued with the approval of the electors.
2. Bonds issued in anticipation of special assessments for the improvement of property.
3. Bonds issued for the purposes of constructing, improving and extending water works.
4. All bonds issued prior to April 29, 1902 (The date of the original Longworth Act).

The effect of such a definition was obviously to increase suddenly the debt-incurring power of many localities. That these restrictions which the Longworth act had introduced did not operate to check the increase of local debts is clear from the following figures showing the total local debt during the period 1900 to 1910:

Year	*Total local debts*
1900	$26,193,603
....	.....
1904	125,396,603
1905	138,856,813
1906	146,849,926
1907	157,023,489
1908	170,179,657
1909	184,314,231
1910	187,574,322
1911	199,260,470

Meantime the stage was being set for a further extension of the debt limit, and this time in a very undesirable direction. The borrowing power of municipal corporations was extended in 1903 (96 O. L., 51) by an act which authorized the use of deficiency bonds in the following terms:

"Section 3931. Council may issue deficiency bonds in such amounts and denominations, for such periods of time, not to exceed fifty years, and at such rate of interest not to exceed six per cent as it deems best when in the opinion of council it is necessary to supply a deficiency in the revenues of the corporation. The total amount of deficiency bonds issued by a corporation, outstanding at any time, shall not exceed 1% of the total value of all property in the corporation as listed and assessed for taxation. The issuance of such bonds shall be approved by the votes of two-thirds of all the members elected to council, and approved by the votes of two-thirds of all the electors of the corporation voting on such question at a regular or special election to be provided for by council".

The authority to refund bonds which the municipality found itself unable to redeem at maturity had been granted much earlier (See R. S. Section 2701. 70 O. L. 5; 89 O. L. 417; 92 O. L. 170). Apparently these two classes of bonds had begun to be inconveniently large, for we shall presently find that measures were taken to relieve localities of the embarassment which they were causing.

The next legislation relating to debt limitations was enacted in 1911, in connection with the general readjustment of valuations and tax rates which became effective in that year. The first act, (102 O. L. 11) preserved the 1% and the 4% limits on debt incurred without popular approval for certain purposes, and the outside limitation of 8% on the net debt which could be incurred by a municipality for any and all purposes, whether with or without vote. Net indebtedness was defined as in the earlier acts. The increases in assessed valuation had been made at the time this act was passed but the full results were probably not available. Whether from lack of accurate knowledge of the increases made or from design, the readjustments in the percentage limits had

the practical effect of a further extension of local borrowing power. Section 2 of the act just mentioned provided that the 4% and 8% limits should apply to the valuations of 1910 until September 30, 1911, and that on and after October 1, 1911, these limits were to be reduced to 2½% and 5%, respectively, of the valuations of property that might thereafter be established. There are no records extant to indicate the general assembly's intention with regard to the maintenance of the same relative restraint on local debts that had theretofore existed, but it is certain that the changes made resulted in an extension of such local debt-incurring capacity.

We are not in such doubt with respect to the second debt limitation enactment of 1911 (102 O. L. 262). This rather extended act was a brief codification of the debt limit laws — it brought together all of the provisions relating to the creation of local debt which have been outlined above, including the changes which had been introduced earlier in the same session. The deliberate extension of the limits came in the new list of classes of bonds which were to be excluded from the definition of net indebtedness in computing the debt limits. The changes may be shown by restating the list of excluded bonds, which is as follows (Section 3949, G. C.):

"a. Bonds issued prior to April 29, 1902.

"b. Bonds issued to refund, extend the time of payment of, or in exchange for, bonds representing an indebtedness created or incurred prior to April 29, 1902.

"c. Bonds issued in anticipation of the collection of special assessments, either in original or refunded form.

"d. Bonds issued for the payment of obligations arising through emergencies caused by epidemics, floods or other forces of nature.

"e. Bonds issued to meet deficiencies in the revenues, as provided for in section 3931 of the General Code.

"f. Bonds issued for the purpose of purchasing, constructing, improving and extending waterworks when the income from such waterworks is sufficient to cover the cost of all operating expenses, interest charges and to pass a sufficient amount to sinking fund to retire such bonds when they become due".

The exclusion of flood and other emergency bonds was proper enough, and was very useful in repairing the damage done by the disastrous floods of 1913. But it was highly improper that refunding and deficiency bonds should have been so treated. The appearance of such bonds is at all times a sign of inadequate tax revenues or of woefully incompetent financial administration, and it is not without significance, as we look back upon other events of the year 1911, that the way should have been made easier for municipal deficit financiering through these changes in the debt limit law in the same session of the

legislature in which was being provided a greater incentive for resort to such methods in the peculiar arrangements of the tax limit law. We have already pointed out that this law has not served effectively to check the increase of local indebtedness, but has rather appeared to have the contrary effect of encouraging it.

The next step in the control of the local bond issuing practices was the adoption of Article XII, Section 11 of the state constitution, in 1912. This section reads as follows:

"No bonded indebtedness of the state, or of any political subdivision thereof, shall be incurred or renewed, unless, by the legislation under which such indebtedness is incurred or renewed, provision is made for levying and collecting annually, by taxation, an amount sufficient to pay the interest on said bonds, and to provide a sinking fund for their final redemption at maturity".

This amendment proved particularly embarassing for the time because of the restrictions upon the local tax levies which the tax limit law had imposed. These limits, it will be remembered, permitted the interest and sinking fund levies for debts incurred before June 2, 1911, and for all debts issued thereafter by vote of the people, to be made outside the ten mill limit, but required them to be included within the fifteen mill limit. All bonds issued without popular vote were to be provided for within the ten mill limit. On the face of things we have here an effective limitation upon the volume of local indebtedness which might be incurred, because of the close restrictions upon the tax levies for the purpose of paying the interest and sinking fund charges against such debts. And in view of the constitutional requirement that tax levies for such purposes must be made, nothing more would seem necessary in order to hold down local debts.

As a matter of fact, however, this has not happened, as the figures given above show. On the contrary, it may with reasonable accuracy be said that the principal effect of the restrictions on the levying power of localities has been to diminish their debt-paying power, and so to influence unfavorably the standing of Ohio municipal and other local bonds in the general financial market. Theoretically the full faith and credit of an Ohio municipality is pledged for the payment of interest and principal, but practically this is not the case because of the restrictions on the levying power for such purposes. Such bonds must be sold on less advantageous terms and this means an additional burden on Ohio taxpayers.

The constitutional amendment of 1912 would have been much more embarassing for many localities if it had not been for certain earlier statutory enactments which have permitted the withdrawal of

money or securities held in the sinking fund for other purposes than bond retirement. Section 4506 authorizes the payment from the sinking fund of all judgments found against the corporation except in condemnation of property cases, (96 O. L. 54), and Section 4517 authorizes the trustees of the sinking fund to sell or use any of the money or securities in their possession for the satisfaction of any obligations under their supervision. **These raids upon the sinking funds are unfortunately perfectly legal, but they have the effect of defeating the purpose of the constitutional requirement for sinking fund levies. Such practices and the laws which make them possible cannot be too strongly condemned, for in addition to the evils of deficit financing which they encourage they have helped to divert attention from the more important problems of taxation reform which otherwise would have been forced upon the state long ago.**

The final enactment in this series of debt limit laws came in 1917, when the amount of debt that might be incurred in any one year without popular vote was reduced from 1% to ½% of the total assessed valuation of property. This change came too late to be of great service in debt restriction, for the localities had already piled up an accumulation of debt which in many instances has become extremely burdensome. The extent of this burden is shown by the following data, compiled by the auditor of state in 1917. The eighty cities in the state collected in tax revenues for the year 1917 an aggregate of $26,411,178 for city purposes, but it required $180,657 in excess of this large amount to pay the interest and retire the bonds falling due during the year. The percent of the tax income for the year which was required for interest and bond redemption purposes is shown in the following table, which gives the number of cities in each percentage group.

NUMBER OF CITIES HAVING INTEREST AND RETIREMENT CHARGES BEARING THE INDICATED PERCENTAGES OF TAX INCOME FOR YEAR.[1]

Percentage groups	*Number*
Under 50%	2
50% to 100%	42
100% to 150%	28
Over 150%	8
Total	80

The only explanation of this situation is that the funds for current operation were obtained from new loans and from the sinking fund

[1]Auditor of State, *Report*, 1917, pp. 6-10.

through the device of confessing judgment in suits for salaries and other claims brought against the cities. The conjunction of debt and tax limits conspired to make this the easiest way of securing the needed revenues.

The conclusion which we reach from this record, when read in connection with the rise of local debts, is that the general assembly must set up a debt limit which will really operate effectively to control local debt creation and redemption. The debt limits must be strenghtened and the tax limits sufficiently relaxed to permit the payment of current expenses from current income, while the resort to public credit should be restrained to those proper and necessary uses which alone justify the loan as against the tax for the support of government. A careful revision of Sections 3913 and 3931 should probably be made in order to limit more strictly the local emergency borrowing powers.

V. The Ohio System of Taxing Corporations.

The Ohio system of taxing corporations is necessarily complicated, by reason of the great diversity of the classes of corporations which must be reached under any adequate system of corporate taxation. In presenting this brief outline of the Ohio system we have had no intention other than to exhibit thereby some of the complications of the subject and to describe briefly, for the benefit of the general assembly and of other readers of this report, a part of the Ohio revenue system which we have not undertaken to change. Our reason for not entering upon such an undertaking at this time will perhaps be made clear as our exposition proceeds; and such further explanation as may be required may more profitably be given after the outlines of the present system are before us.

Our system of corporate taxation must be presented from two points of view, in order to be thoroughly understood. The first is the form of the tax imposed and the second is the purpose, whether state or local, for which each tax is levied. In this discussion we shall follow the order observed in the General Code and shall indicate for each class of corporations first the nature of the taxes imposed and then the treasuries into which these taxes find their way.

1. Miscellaneous Business Corporations. All miscellaneous business corporations, domestic and foreign, are subject, first of all, to the general property tax (Sections 5404-5406). Their real estate and such tangible personal property as merchants' and manufacturers' stocks and personal property on farms, is assessed and taxed where located; and their other personal property is assessed and taxed in the place which they may designate as their principal place of business. The property of corporations is returned to the respective county auditors and is

assessed by them. In recent years the auditors, acting under the general direction of the state tax commission, have been requiring submission of balance sheets and other financial statements for the purpose of checking the returns of property made on the assessment blanks. The rates applied are the local rates of the several taxing districts in which the property is listed and the taxes paid on account of such property are for local uses.

This general class of corporations is also subject to taxation for state purposes. Domestic corporations are required by Section 5498 to pay a tax of 3/20% or not less than $10, on their subscribed or issued and outstanding capital stock, and such shares are exempted from taxation as property in the hands of the holders (Sections 192 and 5372). Foreign corporations pay a similar franchise tax of 3/20%, or not less than $10, on the proportion of the authorized capital stock represented by the property owned and used and the business transacted in the state (Section 5503). The shares of such corporations are not exempt from taxation as property in the hands of the holders, if the latter are residents of the state, unless two-thirds of the property of such corporation is located within the state.

2. Banks. The method of taxing banks is in general determined by the rules which have been laid down by the federal laws for the state taxation of national banks. These institutions may be taxed by the states in which they are located in the same manner in which other moneyed capital is taxed. In practice this means that all banking institutions recognized as such will be taxed by a given state in the same manner, to avoid discrimination. Bank real estate is to be taxed where located in the same manner as the real estate of individuals (Section 5409). The bank shares are to be taxed in the place where the bank is located, to the holders thereof, unless the bank has agreed to assume the taxes. The assessment of bank shares is made by the county auditor, on the basis of the book value (or the market value if such is ascertainable) less the assessed valuation of the real estate locally taxed (Section 5412). No state tax is imposed on banking institutions as such, except certain fees levied on state banks for the support of the state banking department.

3. Public Utilities. All of the real and personal property of public utilities which is used in the business is subject to taxation for local purposes. A return of this property is made to the state tax commission by whom the assessment is made and certified locally to the various taxing districts in which the property is located. The distribution is on the basis of proportionate valuation except in the case of express, telegraph and telephone companies. In these cases the real estate locally assessed

is deducted from the total valuation of the property used in the state, and the remainder is apportioned locally, in the case of express companies in the proportion of the gross receipts from the different taxing districts in which express company property is located; and in the case of the telegraph and telephone companies, in the proportion of the miles of wire in the different districts.

The various classes of public utilities are also taxed for state purposes on their gross receipts from business done within the state. This is an excise tax levied by the state for the privilege of carrying on the intra-state business (Section 5485). The rates vary with the different classes of utilities, and range from 1.2% in the case of such companies as electric light, gas, water, heating and cooling companies, to 4% in the case of steam railroad and pipe line companies. The various classes of car companies (sleeping car, freight line and equipment companies) pay an excise tax of 1.2% on that proportion of their capital stock which represents the property owned and used within the state.

4. Foreign Insurance Companies. An excise tax is levied by the state, for state purposes, on the amount of gross premiums received by foreign insurance companies from policies covering risks within the state, less return premiums and considerations received for reinsurances. The tax is computed by the commissioner of insurance and the present rate is 2½%.

This very hasty review of the Ohio system of taxing corporations will suffice, perhaps, to reveal the maze of complications which has been built up. In view of such an entanglement of taxing provisions it is impossible for anyone to decide, without far greater opportunity for careful study than we have had, whether such a system is operating properly or not. It is perfectly clear that there are too many interests involved to undertake a reorganization and readjustment of the system of corporation taxes without the most careful study of the whole problem. At one point is the local revenue derived from the corporate property locally taxed, and the effect of a general change in the system upon the local finances; at another point is the system of segregated revenue sources for the state, and the effect upon this policy of a general reformation of rates and type of tax applied; at still another point is the questeion of the relative tax burden which the various groups and classes of corporations ought to pay, as compared among themselves and with other classes of taxpayers. The proper basis of corporate taxation must also be considered; and finally, there is the far-reaching question of the ultimate incidence of such taxes. The extent to which these taxes

are successfully shifted must be considered in determining the weight of the so-called corporation taxes. These are some of the considerations which have caused us to refrain from attacking the vast problem of our corporation taxes at this time, for we realized that the date set for the opening of the adjourned session of the general assembly would arrive before a study of such magnitude could be completed. These consideration will also serve to make clear our reasons for not extending the income tax which we have recommended to the incomes of corporations. A satisfactory tax on the income of corporations would require careful and extensive adjustments of the present system of taxing corporations for local and state purposes. The constitution would not at present permit the substitution of an income for a property tax (See Article XII, Section 2 and Article XIII, Section 4), and such an income tax would need to be regarded as a minor and auxiliary revenue measure. But even such a measure, we insist, could properly be undertaken only after very thorough study of all phases of the problem. We recognize that the Ohio system of corporate taxation is confused, at points illogical, and in some instances perhaps unjust. We suggest that the further study of this immense problem, with a view to securing greater unity in the whole tax system, might very well be given the careful consideration of the general assembly.

VI. Summary of Findings in Chapters II and III.

The financial situation in Ohio, as the committee views it after the above survey, may be summarized thus: so far as the state's finances are concerned, there will almost certainly be a deficit for the present biennium, although the amount of it will be determined by the volume of additional appropriations which may be made and by the yield of the existing and the new sources of state revenue. The most serious aspects of the state finances are the inelasticity and the inadequacy of the tax revenues, the excesses of appropriations over actual receipts and the need of a greater degree of state participation in matters of state-wide interest and responsibility, such as health supervision and education. In view of the expanding requirements of these and other public activities it is our judgment that the present state revenue system is proving increasingly insufficient, and that serious consideration should be given to its readjustment.

The data compiled by the state tax commission shows that the local subdivisions assessed a total tax revenue of $120,000,000 in 1918. Other materials assembled by the same body indicate that the budget requests from these subdivisions which were denied by the local budget commis-

sioners totaled some $30,000,000 to $38,000,000. (See table VI above. Allowance is here made for the omitted districts.) It is impossible to determine just how much water these original requests contained, in anticipation of the squeezing which it was understood would be applied by the budget commissioners, but it is most unlikely that the entire amount refused was unnecessary excess, and it follows that the amounts received in 1918 were insufficient to permit the proper conduct of the local governmental activities in that year. In the following chapter we have presented our estimates of the revenues which may be expected from the new measures which are herewith recommended, and we present here a summary of these estimates for the purpose of showing the extent to which our program may be expected to meet the existing financial requirements. We admit freely that we are indulging in guesswork, but we have taken care that we shall understate rather than exaggerate the situation. Our figures may properly be criticized, therefore, from this point of view.

The additional revenues which it is clear must be provided for the state and the local units may be obtained, ultimately, from different sources, or by a combination of sources. The possibilities are the following:

1. The new taxes herewith proposed by the committee;

2. Enlarged taxes resulting from the increases in the property duplicate;

3. A similar increase in revenues resulting from advances in property tax rates.

A fourth possibility exists, in the form of other additional sources of revenue not covered in this report. We have refrained from the consideration of such additional sources of public income until the effects of our present suggestions may be more accurately appraised. The estimated yield of the new taxes proposed and the estimated distribution to the state and the various subdivisions are as follows:

ESTIMATED TOTAL YIELD OF THE NEW TAXES AND ESTIMATED DISTRIBUTION TO THE STATE, THE CITIES AND THE OTHER LOCAL SUBDIVISIONS.

Tax.	Total Yield.	Estimated Share to Cities.	Estimated Share to Other Local Subdivisions	Estimated Share to State.
Tax on Motor Vehicles	$7,000,000	$2,500,000	$1,000,000	$3,500,000
Inheritance Tax	3,000,000	1,250,000	250,000	1,500,000
Income Tax	8,000,000	5,000,000	1,000,000	2,000,000
Totals	$18,000,000	$8,750,000	$2,250,000	$7,000,000
Total Minimum Requirements in 1918.		$11,774,005	$3,473,641	.....
Estimated Shortage		$3,024,005	$1,223,641	.....

NOTE:—The estimated share for the state includes the yield of the inheritance tax, which has already been included in Table II above. The yield of the vehicle tax will not enter the state general revenue fund at all, hence the only item available for the estimated state deficit will be the yield of the income tax.

The estimates of the local requirements were arrived at by assuming that the 12% increase for the 18 missing counties would be spread evenly among the various classes of subdivisions. The minimum requirements shown in Table VI above were increased 12%, and this total was then reduced 1/6 on the assumption that the preliminary budget requests had been inflated by that amount in anticipation of cuts.

The school needs as shown in Table VI above are omitted here because it is expected that these will be met by our school relief bill.

It must be borne in mind that our calculations have proceeded upon the basis of the 1918 local requirements, and that by 1920 these total requirements would have advanced materially. It appears from these estimates that the amount of additional revenues which will become available for the local units in 1920 through the new revenue measures here outlined, if all are adopted, will not prove sufficient to cover the local needs on the basis of last year's requirements; but in order for even the degree of relief which we have suggested to be realized, it will be necessary to enact the income tax in time to apply to incomes arising in 1919, that is, before the close of the calendar year 1919.

We are accordingly recommending this bill for passage, but in presenting it we feel that our position with regard to such a tax should be frankly stated. We have been very favorably impressed by the plan of property and income taxation proposed by the National Tax Association in its Model System of State and Local Taxation. A correlation of property and income taxation of the sort there proposed is not now pos-

sible in Ohio for constitutional reasons and we have been obliged therefore to view the income tax as a minor and auxilliary revenue resource. Some members of the committee are reluctant to enact the income tax in addition to the present system of property taxation, and we are submitting this bill only because we see no satisfactory alternative method of providing larger revenues to meet the immediate needs of the state and the local subdivisions, particularly the municipalities. These needs are urgent and immediate; they represent the amounts which ought if possible to be provided for the fiscal year 1920, and it must be understood that our estimated shortages as stated above are undoubtedly far below the actual figures for 1920, because of the rate at which public outlays are expanding. Our entire program will not assure complete relief, as we have shown; but even this degree of relief will not be available unless the income tax, and we may add, the motor vehicle tax, are enacted, for the following reasons:

1. The increases in the property duplicate which we may reasonably expect to follow from more effective administration will produce no effect upon local revenues until the tax collections of 1921.

2. The emergency relief bill for cities (H. B. 567) provided additional support for the fiscal year 1919 only.

3. Any increase which may occur in the property duplicate will produce no effect upon the state's revenue for general purposes, even in 1921.

4. It would avail nothing at this date for the year 1920 to modify the existing tax rate limitations, since these changes would not become effective in producing enhanced revenues until 1921.

5. Finally, the amount of yield which may be expected from the increases in the property duplicate, when effective, and from the inheritance tax, are quite uncertain. The yield of the income and motor vehicle taxes is also uncertain, but we see no escape from the conclusion that their support, whatever it may be, will be needed in order to permit the state and the localities, especially the cities, to function.

These considerations do not reduce the income tax and the motor vehicle tax to the status simply of emergency measures. Our estimates of local needs are based on the 1918 figures, and we have not undertaken to calculate the rate at which these needs are at present expanding. The inevitable growth of our cities will not only absorb the yield of the new taxes here proposed, but will doubtless compel ultimate resort to the final great resource of the state, the aggregate property duplicate. If larger revenues can be secured by listing a larger total of property for taxation, it will naturally result in a more equitable distribution of the tax burden; but if the efforts which we suggest making to this end fail of

the expected results, we see no alternative but the imposition of heavier rates than are now permitted by law, if education, health and sanitation, the protection to life and property, and all of the other beneficial activities of goverment are not to languish. We urge this the more strongly because we are as reluctant to countenance further resort to an unwise use of public credit as we are desirous that the present program of local debt extinction be maintained and even extended. Unflinching taxation for a few years will result in the retirement of a sufficient volume of local debt to free very substantial local revenues for current use without a further advance in tax rates. We urge that such a policy of local finances be made possible.

CHAPTER IV.

Summary of the Committee's Recommendations.

The committee's program falls into two parts, as indicated above. The first consists of the temporary relief measures which were enacted during the first part of the present session. The other includes the proposals of a more permanent character, such as the revised inheritance tax, the income tax and the extended control of the state tax commission and the county auditor over the assessment of real property. We shall present our recommendations in logical order, with explanatory comments upon each feature. Naturally less attention will be given to those portions which have already received the sanction of the general assembly.

I. The Temporary Relief Measures.

The laws under which emergency relief was extended to local subdivisions were passed as H. B. 567 and S. B. 187. The former authorized the taxing authorities of counties, municipal corporations, townships and school districts to fund deficiencies for the year 1919, issue bonds and levy taxes for the necessary interest and sinking fund charges. The latter measure was enacted as an alternative, open to boards of education only. These boards were authorized, at their discretion either to seek relief under H. B. 567, by funding their deficits, or to proceed at a special election to secure approval of the voters for a special levy for school purposes for the year 1920, the rate not to exceed 2 mills. The members of the general assembly are already familiar with these measures — and further descriptive comment is unnecessary.

II. The Legislative Proposals of a More Permanent Character.

a. *For the more effective enforcement of the property tax.*

We have already described the changes which the committee worked out respecting the administration of real estate assessments. In that connection we expressed the judgment that these changes were adequate and sufficient to insure a proper valuation and assessment of real property. We have not, therefore, deemed it necessary to recommend further legislation in so far as this phase of the matter is concerned.

With regard to the proper assessment of personal property, we have also shown above that very extensive powers have already been given to

the county auditors and state tax commission. If a broader exercise of these powers were made possible by more ample appropriations, it would go far, in our judgment, to realize that degree of supervisory authority which is consistent with a safe treatment of the credit structure of the state.

b. *The Inheritance Tax.*

The committee's inheritance tax measure was enacted in the earlier session of the general assembly and the text of the law is not reprinted in this report. Inasmuch as there has been no suitable opportunity hitherto for the discussion of this bill, we include herewith an account of its more salient features.

The position of the inheritance tax in the modern taxation system is too well established today to require argument in its defense. Ohio's inheritance tax law has long been out of line with the best legislation on this subject, since it has applied to collateral heirs only, its administrative provisions have been defective, and its yield, therefore, negligible. A progressive direct inheritance tax law would have been of doubtful constitutional validity after the case of State vs. Ferris (53 O. S. 314, 1895), until this doubt was removed by the adoption of Article XII, Section 8, in which the rule of progression was expressly sanctioned.

The immediate occasion which compelled resort to the direct inheritance tax was the prospect of losing the liquor revenues, a prospect which became a certainty as the national prohibition amendment was ratified The joint special taxation committee proceeded to study with great care the inheritance tax laws of the various states and in the preparation of the bill which was enacted into law we sought to draft such a law as would reflect accurately Ohio's general position on the subject of inheritance taxation. We found that there were wide variations in rates, estate groups and exemptions. We avoided the extreme radicalism of one section and the extreme conservatism of another, and sought to work out a safe middle ground that would somewhat correspond with our strategic position between the west and the east.

In accord with universal modern usage we have made the rates on all classes of heirs progressive. Beyond reasonable exemptions to direct heirs, every inherited estate is an indication of suddenly enhanced ability to pay, and there is every reason for attempting to guage this increased ability to pay by a system of graduated rates. On the other hand it was our aim to keep the rate of progression fairly moderate in order to avoid undue discouragement to capital accumulation. In establishing the stages of the progression we have kept in mind the needs of the state as well as the two considerations just mentioned. We have confidence

that our rate schedules will receive general approval as a satisfactory achievement of our three-fold purpose. In this connection the fact should be emphasized that only a small portion of the community's accumulated wealth becomes subject to an inheritance tax in any given year; and in order to avoid undue discrimination it becomes highly desirable that such rates as are established should remain fairly stable for a considerable period of years.

The particular grouping of the beneficiaries which we have established is calculated to approximate with some fairness the variations in dependency upon the decedent, and so to assure a fairer recognition of ability to pay. Three classes are set up, distinguished by the degree of such dependency, and receiving different exemptions. The usual class of direct heirs is divided, the wife or a minor child being allowed $5,000, and all other so-called direct heirs receiving $3,500 exemption. Collateral heirs are allowed $500 exemption, and unrelated persons and institutions are allowed no exemption. Three schedules of rates are provided, applying respectively to all direct heirs, to collateral heirs, and to all other beneficiaries.

In determining the conditions under which property passing by succession shall be subject to the inheritance tax we have had in mind the desirability of promoting interstate comity and uniformity. The conditions which we have laid down correspond closely to the provisions of the model inheritance tax law which has been recommended by the National Tax Association. We have further sought to promote interstate comity and uniformity by permitting the deduction of taxes of like amount and character laid by any other state or country on the succession to property situated therein, provided a guarantee or security for the payment of these taxes be given. If the foreign taxes are less in amount than those that are hereby levied, such succession becomes taxable under this law to the extent of the difference between the taxes paid or guaranteed in the foreign jurisdiction and those which would be collectible under the Ohio law.

It was felt to be very necessary to establish the best possible administrative conditions in order to secure the largest financial results, and to this end the state tax commission was placed in general charge of the law. The county probate courts are given jurisdiction of all questions that would arise not only with respect to succession by death but also with respect to succession *inter vivos,* and the county auditors are made the appraisers of property. The assessment of taxes is made by the probate court, subject to the appeal of interested parties including the tax commission. As a means of securing a better listing of property for taxation during the life of the owner, as well as to promote the effectiveness

of the present law, section 5348-2 forbids the transfer of any stocks, or other securities, or the opening of any safety deposit boxes, unless notice is served at least ten days prior thereto to the tax commission and the county auditor. Representatives of either of these officials may personally examine such deposits, securities or other assets, at the time of delivery or otherwise.

The constitutional requirement of distribution has been observed, but with the further requirement that one-half of the amount assigned for the use of any municipal corporation or township shall be credited to the sinking fund of such district, if any, and the other half to the general fund. The fees for collection and the other expenses of administration are paid from the remaining half, the residue of which is turned into the general revenue fund of the state.

The best indication of the proper yield of the inheritance tax is the New York experience. The exemptions and schedules of rates in the New York law are not exactly identical with those in the new Ohio inheritance tax law, but a sufficient parallel exists to permit of a deduction as to comparative results. The average yield of the New York law for the five full fiscal years, 1913 to 1918, (omitting 9 months in 1915-16 because of a change in the fiscal year) was $11.475,183. On the assumption that the value of the estates probated in the two states will bear the same ratio to each other as the amounts of personal incomes returned under the Federal Income tax law in 1917, the yield of the Ohio inheritance tax would be 24.51% of the New York yield, or $2,813,567. If we increase these figures by fifty per cent. in order to make our estimate perfectly safe we get $4,220,350, which is probably in excess of the yield to be expected from the inheritance tax during the first few years of its operation. In table II above we have accepted commissioner Cassidy's estimate of a $3,000,000 yield, half of which was given to the state, a total of $3,000,000 for the biennium.

We are presenting also a bill for the purpose of correcting certain errors which were inadvertently retained in the inheritance tax law as originally enacted. The nature of these changes will be clear from the italicised portions of the sections which are to be affected by them.

c. The License Tax on Motor Vehicles.

The recent appearance and rapid development of the modern motor vehicle has occasioned much difficulty in keeping the method of taxation of such vehicles properly adjusted to the advance of the industry, and to the special needs for improved highway construction which this advance has brought about. Under the Ohio constitution the automobile must be included in the general mass of property which is listed for

taxation at property tax rates, and in this way it constitutes a measure of taxable capacity, at least so far as the present constitutional theory of taxation is concerned. The revenues derived from the property tax on automobiles properly goes for the general uses of the localities or of the state, to the extent and in the proportion that levies on property for these respective uses are made.

In this respect the automobile is no different from any other form of property, and as long as the uniform rule remains, there is no reason for taxing it in a different way than other forms of property are taxed, as property. But the modern motor vehicles, of all classes, have given rise to certain special problems out of which has come the general tendency to impose upon such vehicles, as the active agents in the case, other special taxes, levied not in respect of the vehicle as property, but in respect of the use of the public highways without which such modern devices are very impracticable. In other words, the obligation which devolves upon the state to establish and maintain highways of communication and transportation becomes increasingly serious with the multiplicity of vehicles now using such highways, and with the mounting cost of construction and maintenance of roadbeds of sufficient strength and wearing quality to resist for long the tremendous strain of modern motor traffic. It is perfectly proper, therefore, that the classes of vehicles which have been responsible for by far the greater part of this additional public burden should be required to contribute in a special manner toward its support. The pressure for the extension and continued improvement of the state's system of highways is increasingly great as the various classes of motor vehicles become more widely diffused, and for the most part the owners of such vehicles have no objection to sharing in the special costs which are here involved. The tax which we are here preparing is not a property tax but a license or privilege tax, imposed upon the privilege of using the public highways and for the purpose of supporting those highways.

Furthermore, the practice of transporting merchandise and passengers by motor vehicles is becoming increasingly general, and this means that the state is under the compulsion of supplying to such users of the highways a roadbed and a right of way for transportation purposes, which would be constructed and maintained without expense to them if some special method of charging for this use were not devised. The original public highways were paid for, in many instances, by tolls and this method is by no means an unfamiliar one today. The toll system has been given up in Ohio for many years, and we are here proposing what we regard as a more effective measure for the better distribution of the cost of modern road construction and maintenance

than the toll system. The toll is suitable for a local undertaking, and was found at its best in the local development of the roads of an earlier period. The license tax, administered by the state, is in better keeping with the statewide problems of highway construction, supervision and policing which have come with modern conditions and methods of travel.

The principal objects of the present bill for the taxation of motor vehicles are to secure a larger revenue for road purposes and to effect a better distribution of this larger contribution among the various classes of owners and users of such vehicles.

The Ohio license taxes on motor vehicles have not been satisfactory heretofore in either of these respects. The revenue receipts have necessarily been relatively small in comparison to the number of vehicles registered because of the low flat rate imposed; while this flat rate has meant a very inequitable distribution of burden among the various classes of vehicles to which the law was applied. The total collections of the state automobile department are shown in Table III above. By far the largest amount ever collected in a single year was the yield of $2,166,270 in 1918, from over 400,000 registrations. But in the fiscal year 1917-18 the Connecticut revenue from 94,118 registrations was $1,066,988, in addition to which there was derived $218,176 from operators' licenses, or a total of $1,285,164. Various other eastern states have been deriving a very substantial amount for road purposes from their automobile license taxes.

As little can be said in favor of the Ohio system of a flat charge, from the standpoint of the equity of distribution. The proper basis of distribution of such a tax is the amount of damage or wear caused to the highway by the various classes of vehicles. The flat charge makes possible no distinctions on account of the character of the use, whether for private profit or for pleasure, nor for weight of vehicle or for engine power. There can be no debate over the principle of a license tax which is graduated with respect to the chief factors involved in the wear and damage to the highway.

There is more room for debate and for honest difference of opinion as to what constitutes a reasonable graduation or adjustment of the rates to the relative importance of these factors. Following its policy of seeking the best advice obtainable with regard to the respective subjects under consideration the committee gave as much time as was desired to the representatives of various organizations interested in the development of better highways, and to those interested in the automobile industry, including the State Automobile Association. The model license tax bill recommended by the National Association of Automobile Manufacturers was freely drawn upon in the preparation of our bill and

we have adopted the general policy of rate determination there suggested, with such variations as seemed necessary because of the fact that automobiles must remain taxable as personal property. An alternative proposal as to rates would have been suggested had it been possible so to classify motor vehicles as to relieve them in part or entirely from the general property tax.

The rates proposed in the present bill are in two schedules. The first is applied to passenger cars, on the basis of horsepower, the tax ranging from $8.00 on cars having twenty-five horsepower or less up to $20 for those having more than thirty-five horse-power. The intermediate group pays a tax of $12. The second schedule applies to commercial cars which pay the same rates on the horse-power basis as passenger cars, and in addition, a flat tax of twenty cents per hundred pounds gross weight of vehicle and load. Trailers are to be taxed at the same rate as commercial cars on the gross weight of vehicle and load. A minimum tax of $5.00 is established for each vehicle other than motorcycles and $2.50 for each trailer. Fixed weight allowances are set forth for passengers carried by commercial cars and formulæ are suggested for the determination of horse-power. Provision is also made for prorating the tax by the quarter, according to the date of registration.

It was our object to prepare a tax schedule which would graduate the burden according to the wear and damage to the road, and would at the same time be so simple in administration as to cause the least possible difficulty to the taxpayer. The two factors which cause wear and damage to the road are weight and speed. In the case of passenger cars the engine power is usually, though not always, adjusted with some care to the weight of the vehicle and load. The exceptions seemed to us so unimportant as to warrant the graduation of the tax on the basis of horse-power alone, which becomes therefore our index of weight and speed, and thus of wear and damage to the road. In the case of commercial vehicles the load factor becomes of so much greater importance, relatively, that we deemed it necessary to apply a separate tax to this factor.

The tax applied to manufacturers of or dealers in motor vehicles are doubled over the rates contained in the present law.

The secretary of state remains in general administrative charge, as registrar of motor vehicles. The county auditor is made a deputy registrar, who is to act for the secretary of state in receiving applications for registration and for certified copies of registration certificates, and in the collection of the taxes and fees provided for under this chapter. He is also required to be in charge of the local distribution of the number plates and certificates, and to perform such other duties connected with this act

as the secretary of state may require. Any responsible citizen or organization may be deputized by the county auditor, at the direction of the secretary of state, for the purpose of assisting in the distribution of registration certificates and number placards. Such special deputies shall give bond in such amount as the secretary of state may prescribe. They shall receive no compensation for their services, but all or such part of their actual and necessary expenses may be paid out of the appropriation under this chapter as the latter official may allow.

The revenues obtained under this act are required to be used for road maintenance and repair. Fifty percent of the collections are to be retained for local use, and this proportion is to be certified by the county auditor to the proper registration districts, which are either the municipal corporations or the county in which the owner resides or in which he has his principal place of business. If the owner resides in another county, this proportionate share of the collections is certified to the secretary of state, by whom a proper redistribution is made. In the several local treasuries such money is to constitute a fund to be known as the "Maintenance and Repair Fund," the assets of which shall not be subject to transfer to other funds. In other words, the proceeds of the automobile tax are to be used for road maintenance and repair, and for no other purposes. The state's share shall consist of the remaining fifty percent, less the fees and other costs of collection and administration, and this share shall likewise be credited to the "State Maintenance and Repair Fund," subject to the disposition of the highway commissioner. Maintenance and repair, as used in this section, include "all work done upon any improved road or highway, or upon any street, in which the existing foundation thereof is used as the sub-surface of the improvement in whole or in substantial part."

The exact yield of this tax in Ohio cannot be forecast with accuracy. On page 53 above we have made use of a very tentative estimate of $7,000,000, which was based on the selection of several thousand cars at random from the registration of 1919. This figure is probably too high.

The importance of providing additional funds for road maintenance and repair is shown by the following data on the highways of the state. The total highway mileage, classified according to the nature of construction, is:

Earth roads	50,843.1	miles
Gravel roads	16,555.8	miles
Cinder roads	86.9	miles
Macadam roads	14,936.4	miles

Concrete roads	517.4	miles
Bituminous roads	33.6	miles
Brick roads	869.0	miles
Total roads	83,842.2	miles

These figures show that about four-fifths of the state's highways are yet to be improved. The state is at present constructing about 600 miles per year, and is co-operating with the counties in the reconstruction of some 600 miles more each year. At this rate it will require more than fifty years to improve the unimproved roads included in the above table. No one is more impatient of slow progress in this direction than the motorist, and no one stands to gain more than he from more rapid advance. He should at least be willing to pay his part of the special costs of highway improvement and maintenance.

In addition to the new construction above mentioned, the state is now paying a part of the cost of maintaining county improvements on the state road system, under the policy set forth in section 1224 of the General Code. In all, there will be available for ocnstruction purposes in 1920 the following sums, according to an estimate furnished by the Ohio Good Roads Federation:

From the state	$1,800,000
From the federal government	3,708,000
From the counties in cooperation with the state	10,000,000
From the counties for local county roads	7,000,000
Total	$25,508,000

Of this amount, $21,800,000 will be produced by taxes on property. It is reasonable to assume that if the new construction is financed by the property taxes the maintenance and repair should be met, in considerable part at least, by charges against the traffic. In this connection it must be borne in mind that the cost of maintenance and repair will increase as the network of improved highways is extended. In time this improvement will reach a point beyond which the annual outlay for such purposes will be reduced materially, as in some other states, in which the amount annually spent on new work, is much less than the outlay for maintenance and repairs. When this time comes a larger portion of the road taxes on property may be used for maintenance, and a readjustment of the charges on traffic may be considered. Until that time arrives, however, the policy of a considerable license tax for road maintenance and repair finds ample justification in the universal demand for an extension and improvement of the state highway system.

d. *The limitation of local indebtedness.*

We have outlined in Chapter II above the present provisions for local debt limitation. It was there pointed out that our experience with statutory debt limitation has not been satisfactory, for as soon as the limits established threatened actually to limit debt creation these limits were changed in such a way as to become ineffective as a restraint. We cannot accept this conception of a debt limitation, which is on its face a pure farce. On the other hand we understand perfectly the complaisance with which the general assembly and the people have viewed this situation. **There has been stronger popular sentiment behind the strict observance of the tax limit law than there has been behind the debt limit law, and it is only natural that the weaker limit should yield.** Indeed, so great has been the general insistence upon the sanctity of the tax limits that there has been no difficulty or hesitation over the wholesale funding of deficits, and there are doubtless many persons in the state who still firmly believe that such a tax limit law has actually succeeded in limiting expenditures.

Our proposal for debt limitation comes to the general assembly in the form of a joint resolution providing for the submission of a constitutional amendment. We have decided to recommend the limitation as an amendment rather than a staute, because of its relative importance, and because of the greater need of making it secure. **We desire to reiterate our settled judgment that while a limit on tax rates is good, an effective limit on debts is vastly better, and that th force of popular sentiment should be built up back of the latter rather than the former. It is of much less importance that tax rates be limited than it is that localities should more nearly pay as they go.** We have emphasized the tendency for debt limits to give way before the pressure of rising tax rates. In order to prevent this, the debt limit should be made more secure from the attack of those who would avoid immediate payment for what they get. As a constitutional amendment it will have this greater security, while it will operate with immensely increased effectiveness as an actual check or limitation to restrain the excessive and improper use of public credit. In our judgment it will not have the effect of denying to any community that use of public credit which is compatible with a sound theory of the use of public credit.

Our theory of public credit is that it is a valuable public resource which should be used to supplement the taxation resources, and never as a means of evading taxation. It should never be resorted to, therefore, for the purpose of covering operating deficits, nor for financing improvements which by their nature and by the frequency of their recur-

rence, are properly charges against current revenues. A temporary loan in anticipation of revenues may be permissible if occasioned by emergency outlays, but if this practice becomes frequently necessary it is convincing evidence of the inadequacy and inelasticity of the public revenues. A revision of the tax laws is far wiser in such circumstances than the continued funding of operating deficits.

Public credit may properly enough be used, under certain conditions, to provide improvements which are self-sustaining; the fundamental condition here being that the revenues or collections from such improvement be irrevocably pledged to the payment of interest and sinking fund charges. As an additional safeguard the investor would doubtless insist that the general credit of the borrowing district be also pledged for these payments. It is proper enough in our judgment, furthermore, to use the public credit for the construction of non-selfsustaining improvements of such scope and cost as would produce an excessive burden if the whole cost were concentrated in one or two tax years. The main test of the legitimacy of the use of public credit for non-selfsustaining improvement becomes, therefore, the period of time within which the outlay in question may be expected to recur.

We may illustrate this point by the case of school buildings. The school population of Cleveland, Cincinnati, and other large cities of the state is increasing at such a rate as to require the construction of one or more new school buildings each year. As long as this rate of increase continues the outlays for school buildings should be viewed as current expense and should be provided from current revenues. The policy of borrowing money for such construction means a vastly increased cost of school buildings, for the taxpayers must not only pay taxes enough in the end to cover the initial cost, but also enough to cover the interest on the deferred installments of debt redeemd, and in time these interest charges may exceed the current cost of additions. For example, the Clveland school debt, less sinking funds, on July 1, 1919, was $10,713,277. At an average interest rate of 5% this means that the taxpayers of the city are paying out $535,675 annually, or almost the price of two new schoolbuildings, for the privilege of financing their building program in this way.

But the small city or the village, which needs a single new building at infrequent intervals, could not pay for such improvements as a current expense without adding a very heavy tax burden for one or two years. The total cost of a building paid for by a loan will be much greater, and yet we have here a case of the necessary and legitimate use of public credit. In the same way a great auditorium or other large, unique undertaking, even by a large city, may properly enough be financed by loans.

Distinctions of the sort which we have here hastily outlined can only be set up by proper administrative control, and not by statutory enactment. It is not feasible at this time to undertake to prescribe the kind of administrative control over debt creation which would permit the realization of these standards, and we have therefore attempted to secure somewhat similar results by proposing such debt limitations upon as will compel careful observance of the sound principles underlying debt creation and management.

The limitations which our recommendation sets up are the following:

1) A limit on the total net general debt, that is the debt which must be carried by levies against the general mass of property.

2) A two-fold limitation on the maturity of all debts, consisting of
   a) a maximum limit of forty years maturity, and
   b) a further restriction of the maturity to the probable life of the improvement.

3) A limit of eight years on the maturity of emergency debts.

The basis of the first limitation is the assessed valuation of the taxable real property in the borrowing district. The reason for adopting real property as the measure of the general debt is that the real property valuation is subject to less fluctuation than the total valuation, including personal property. The uncertainty of the results which may attend the efforts to secure a larger return of person property makes it appear probable that this fluctuation will not abate in the future. For a similar reason we have also excluded the value of mines and mineral rights, for as the underlying deposits are exhausted the valuation upon which the debt limit rests declines.

The actual percentages which have been used were determined experimentally, except for townships. We have calculated the ratio of debt outstanding on July 1, 1919, to the assessed valuation of real estate for 1918, for 85 counties, 53 cities, 53 city school districts, and 33 villages. The range of these ratios for each district is shown herewith. In the case of the city school districts the sinking funds were deducted, but accurate data were not available for the determination of the amounts held in sinking funds against the general debt of counties, cities and villages, as distinguished from the assessment and public utility debts, and in these cases the ratios represent the ratio of gross debt to assessed valuation of real estate. Since the net debt would be a smaller figure, the ratios allow somewhat greater leeway than actually appears.

I. RANGE OF COUNTY RATIOS.

Number of Counties having a Ratio of General Debt to Assessed Valuation of Real Estate, of

Less than ½%	23
½% to 1%	17
1% to 1½%	27
1½% to 2%	8
Over 2%	10

2. SAME, FOR CITIES AND CITY SCHOOL DISTRICTS

	Cities		*City School Districts*
Less than 1%	5		8
1% to 2%	12		23
2% to 3%	6		15
3% to 4%	14		5
4% to 5%	8	4% and over	2
5% to 6%	4		
Over 6%	4		

3. SAME FOR VILLAGES

Less than 1%	3
1% to 2%	6
2% to 3%	3
3% to 4%	7
4% to 5%	10
Over 5%	4

We did not attempt to distinguish cities and villages in the limits provided, but set a limit of 4½% for all municipal corporations. In establishing the legal limits it was not considered wise to use the highest ratios found for each class. To be effective the limit should really operate. On the other hand we have no desire to penalize those local units which now have a ratio higher than the established limit for the class. Our plan, accordingly, provides that in such event the further excess borrowing power of such a district in any year shall be limited to 50% of the amount paid to sinking fund in that year. We have also proposed that a special levy of not to exceed 2 mills may be voted for sinking fund purposes if it is desired to increase this margin. Such a restriction in time will bring every district within the limits now set and thereafter these limits shall apply and be observed.

The percentages which we propose are for the limitation of the general debt only. We have excluded therefrom bonds issued in anticipation of special assessments for the improvement of property and those issued for the construction or acquisition of public utilities, to the extent that the latter are self-sustaining. If a community prefer that a publicly owned utility be not self-sustaining this choice will mean a reduction of the general borrowing power to the extent necessary to provide the interest

and sinking fund charges against such public utility debt outstanding. The general borrowing power of such a unit may be increased by raising the rates of the commodity or service supplied through the publicly owned utility. In the event that a community desires to enter a new field of public ownership or activity, we have provided that bonds for this purpose may be issued outside of the ratios here set up provided the future income of the undertaking be pledged to the payment of interest and sinking fund charges. This proviso carries with it, by implication, the agreement to fix such rates as will yield the necessary amounts. Emergency bonds for certain purposes, under proper safeguards, are also excluded from the limits.

It is clear that such a plan of limiting indebtedness will operate far more effectively to restrain borrowing than a severe tax rate limitation. With these provisions in operation there should be such modifications in the tax rate limits as may prove necessary, in order to permit full and complete compliance with the debt retirement program that is here made compulsory. We recommend that modifications of this character be made as may be required in order to sustain the restrictions on debt creation here established.

e. *The school relief bill.*

We have discussed at some length in Chapter II the situation of the schools and in that discussion we dwelt particularly upon the relation of the state to the educational system, and upon the state's obligation to insure the provision for certain educational minima. We have also surveyed the existing sources of state revenue and from this survey it becomes clear that the state would be unable to discharge this obligation adequately from its present revenues from indirect taxes. Nor would it be possible to rely upon the new indirect taxes for school relief. Their aggregate yield would scarcely provide the necessary revenues, if all could be devoted to such use; but the constitution requires the assignment of at least 50% of the receipts from these taxes to the municipal corporations and townships in which the taxes originated. The only resource, therefore, whereby a sufficient revenue might be obtained to meet the school program adequately seems to be a direct levy on the property of the state.

In the preparation of the bill for school relief we have again followed our usual practice, and have consulted freely with many persons whose special qualifications entitle their opinions and suggestions in the school problem to respect. We have had valuable assistance from representatives of the state and national organizations of teachers in developing the plan which we have adopted.

The principal object of this bill is to create larger funds for the payment of salaries to teachers and for other school expenses. This object we have sought to accomplish by providing for a state levy, so-called, of 1.7 mills, and a county levy of 1 mill, to be distributed as hereinafter described. The local levy for school purposes is reduced from 5 to 3 mills, and in order to make compliance with the 10 mill limit possible the township limit is reduced to 1½ mills, while the present state levies for universities, common schools and state sinking fund are abolished. The net gain to school districts from the new state levy will be the difference between 1.7 mills and .15 mills, the total of the three state levies herewith cancelled. The net gain to the state general revenue fund will be the difference between the receipts from these levies and the amount now paid out of that fund in support of common schools. In Table II above we have estimated that this saving would have been about $1,700,000 in 1918.

A special tuition levy of 1 mill is also proposed, to be subject only to the 15 mill limitation. The total levies on property thus far proposed for school purposes are advanced from 5 mills to 6.7 mills, of which 5.7 mills will be subject to the 10 mill limit and 1 mill subject only to the 15 mill limit. In the event that a school district is at present near the limit of the levies which are subject to the 10 and 15 mill restrictions, respectively, some further elasticity will doubtless prove necessary. This element is secured by including the device which was adopted last spring as an emergency measure and we propose to authorize boards of education to levy up to 2 mills outside of the 15 mill limit. Section 5649-5 now authorizes such levy outside of the 10 mill limit, and we are simply proposing that 2 mills of such levy be permitted, subject to no restrictions.

The additional local elasticity which is thus assured is made the more necessary by reason of the plan for the distribution of the funds secured from the state and county levies, as will appear from an examination of the system of distribution.

This plan of distribution is as follows. First the sum of $500,000 is to be set aside from the proceeds of the state levy as a reserve fund for the equalization of educational opportunities throughout the state. The disposition of this reserve fund will be described later. Of the remainder, which is designated "The State Common School Fund", such amount shall be set aside as will cover the allotment required on the basis of teachers employed and salaries paid, and the remainder shall be apportioned among the counties on the basis of the enumerated youth of school age. Each county's share shall be apportioned to the school districts and parts of districts therein on the basis of the aggregate attendance of pupils. The sum distributable on account of teachers is apportioned in an amount equal to 25% of the salary paid to any teacher who receives $800 or more, but in no event more than $350 to any teacher. Only such teachers shall be included in this apportionment as are qualified to hold certificates other than temporary or emergency certificates. The proceeds of the county levy shall be distributed in the same manner as the state levy, except that the county shall distribute to the school districts on the basis of teachers employed an amount equal to 12½% of the salary paid to those teachers receiving $800 or more, but in no event more than $175 to each teacher, and the remainder in proportion to the aggregate days of attendance.

Such is, in brief, the central feature of our plan for greater support of common schools. The two-fold plan of distribution emphasizes the salary paid to teachers and the length of term. The minimum salary of $800 must be paid before aid from the state and county levies may be had, but when this minimum is reached the state and county together pay 37½% of it, or any other salary paid up to $1,400. This reasonable upper limit to state and county aid is inserted in order to prevent the wealthy school district which is able to pay large salaries from absorbing an undue share of the two levies when their needs were relatively less than those of other districts in the same county. The further restriction to those teachers whose professional qualifications entitle them to regular certificates is in line with the policy of requiring professional training of teachers which has already been introduced in this state. It is quite in harmony with our emphasis upon the state's obligation in education to provide in a financial relief bill for the protection of those standards which the state is setting up for the improvement of the quality of instruction.

It was necessary to change numerous other sections of the General Code in order to preserve consistency between the existing school laws and the new sections, and the remainder of the bill is largely devoted to these correctional amendments. The principal changes which were necessary were the following:

1) In section 7575 the former levies of .055 mills for common schools and .0025 mills for sinking fund are abandoned, and the amount of state aid which was rendered under these levies is absorbed in the larger "State common school fund" which is created by the levy of 1.7 mills. The amounts which the state is obligated to pay as interest on the irreducible debt will continue to be paid to the districts which are entitled to receive them, as determined by the auditor of state, but the money for this purpose will now come from the state general revenue fund. The levies for the several state universities are repealed entirely

in order to make greater leeway for common school support within the interior tax rate limitations.

2) Section 7600 provides for the new plan of distribution which has already been outlined. The latter part of this section was intended to correct the inequalities arising in the case of those districts which are entitled to receive interest on the common school fund, otherwise known as the irreducible debt of the state, and the income from unsold school lands. This capital constitutes a kind of endowment for these districts, an income over and above what is being received from the local school levies on property. These fortunate districts are entitled to some advantage, and this is recognized in the proposed terms of section 7600. The endowment or trust income is to be paid, as heretofore; but an amount equal to 75% of such income is to be deducted from the allotment to such district on the basis of teachers' salaries and aggregate attendance of pupils. The sums so deducted shall be added to the amounts available for distribution in the remainder of the county.

4) Section 7600-1 is new. It provides for the apportionment of the amount which may be received from the state and cities by parts of school districts, in the event that such districts be in two or more counties. The whole number of teachers employed and the aggregate attendance of pupils for such parts of districts is to be determined by the proportion which the enrollment of pupils from such parts of district was to the total enrollment of the district.

4) Section 7603 is amended so as to include the amount received from the state and the proceeds of the county levy in the "tuition fund" to be used for the payment of the salaries of teachers and superintendents only.

5) Our program of more careful and adequate provision for debt retirement and more severe limitation on debt creation called for an amendment of section 7613. This section at present requires boards of education to set aside for bonds for which no sinking fund levy had been made an amount equal to 1/40 of such debt. Presumably the sums so provided are to be carried as a sinking fund, but this is not so stated, in terms, and in any case an amortization rate is prescribed with no regard to the maturity of the debt. We have changed this requirement to cover, definitely, the obligation to provide a sinking fund for the retirement of bonds so outstanding.

6. Sections 7736, 7747 and 7751 relate to the payment of tuition for grade and high school pupils in the event that they attend school in another district, whether by reason of distance or the lack of proper school facilities in the district of residence. The tuition to be charged in such cases is to be based on the average monthly cost per capita of

conducting the schools so attended by pupils who are non-residents of the district. Our amendments to the first two sections provide for deducting the amounts apportioned to the districts from the state common school fund and the county levy from the gross expenses of conducting such school before computing the tuition to be charged pupils from another district. The apportionment of funds to such district will be influenced by the number of such non-resident pupils in attendance and the inclusion of the state and county aid as outlays would mean an unnecessary inflation of the cost of school operation for the purpose of determining the tuition charge.

The fund of $500,000.00 which is to be set aside as a reserve for the equalization of educational opportunities throughout the state is our proposed substitute for the present system of state aid to weak school districts, which is hereby abandoned. It is anticipated that the above described features of our bill will greatly reduce the number of such districts, but we are creating the above fund to cover the possible cases and are introducing certain changes in the administration of this relief.

The principal administrative change is to place the superintendent of public instruction in control of the distribution of the fund, and to substitute for the fixed, mechanical, and to some extent demoralizing rules now determining the grant of state aid a more vital and flexible system, based on personal inspection and supervision under our plan. No district shall be entitled to receive aid from the reserve fund until after its application is approved on the basis of a personal inspection of its equipment, its accounts and its standards of instruction. This aid may be withdrawn at any time unless the proper standards continue to be maintained, and in order to secure such degree of proper observance the superintendent of public instruction is given complete control over the disposition of the fund.

f. *The Income Tax.*

The procedure which the committee followed in the preparation of the income tax bill was the same as that observed in drafting the inheritance tav law. That is, we gave careful attention to the experience of those states which appear to have had the best results with income taxation, and we did not hesitate to draw freely upon this experience. We have had at hand, too, the text of the federal income tax law. In this very difficult field, however, we felt especially the need of first-hand study and our economic advisor was instructed to visit certain states and prepare a report upon the operation of the income taxes in those states. This report will be found in the appendix.

The proposed income tax bill falls naturally into two divisions, the first dealing with the determination of taxable income and the second with

the administrative provisions. It is unnecessary to analyze the bill in detail, and we shall not undertake here more than a brief comment upon certain features.

1. The tax is to be imposed only upon the incomes of persons who are residents of the state; but all income received by residents of the state, from whatever source derived, is to be included in the return of income. Corporate and partnership incomes, as such, are not to be included, because it is our aim to reach the taxpaying capacity of individuals, and it is well-known that taxes imposed upon business concerns do not ordinarily stand as a burden, but are shifted as a part of the expenses of the business. We recognize, too, that the income tax could not in equity be extended to business corporations without a complete readjustment of the system of corporate taxation now in vogue. As we have pointed out above, such a readjustment involves a further readjustment of the whole system of state revenues, and with this problem we have done nothing more than to call attention to certain of its aspects. We have been impressed by the recommendations contained in the Plan for a Model System of State and Local Taxation, by a committee of the National Tax Association, to the effect that a state income tax should be levied on the income of persons only, and upon the total income of all persons who are residents of the state and none other. Very early in our deliberations on this subject, therefore, the decision was reached to prepare a bill along this line.

2. The definition of gross income follows closely that contained in the federal law. It is defined broadly to include income and gains of every sort, whether derived from a regular pursuit or business, or from incidental transactions or occupations of any nature. In section 5773-1, paragraph 8 we have expressly excluded stock dividends from taxable income. We understand that a different rule obtains in the federal practice, and that the matter is now pending before the United States Supreme Court. It is our judgment, however, that transactions of this sort do not result in the appearance of income, and we are therefore excluding them from the definition of taxable income.

3. The proper taxation of the gain resulting from the sale or transfer of capital assets presented a very difficult problem to the committee, as it has to others who have undertaken to deal with it. The plan proposed in section 5773-5 represents a compromise whereby we sought to secure some revenue from the accretions of capital increment realized as income through sale or exchange, and at the same time to avoid excessive restraint upon the alienation of property such as would be induced by the necessity of reporting the whole increase in capital value which had accrued over a long period as taxable income for the year of sale or

transfer. The solution is a twofold compromise. First, we have limited the accretion of value which shall be taxed to that which has come in the three years preceding the date of sale or transfer, but in no case prior to January 1, 1919; and second, we have extended to the taxpayer the option of keeping an inventory according to which he may report and pay taxes upon the annual increase of value as it occurs, before a sale or transfer has actually been made, whether in anticipation of such a transaction or not. In the event of realization the amount of taxable gain shall be assumed to have accrued at a uniform rate over the three-year period and shall be taxed at the rates for the respective years. A revised return may be required for each of these years in order to ascertain whether any part of the income so apportioned is actually to be taxed, after allowing for the exemptions and deductions to which the taxpayer would be entitled.

4. The deductions from gross income for the purpose of determining taxable net income follow in general those of the federal law, with such changes as would naturally be involved in avoiding the taxation of federal agencies. In the determination of losses we have provided specifically for the deduction of losses shown by the inventory, in case an inventory is kept, as a counterpart to the plan of taxing gains if such are shown by the inventory. It is clear, of course, that a consistent policy must be followed by the taxpayer, who must submit to taxation on such gains as are shown by the inventory if he expects to take advantage of losses disclosed in the same manner.

The proposal for the deduction of interest on debts (section 5773-8(2), was suggested by the Plan for a Model System of State and Local Taxation. The object here is to limit the deduction of interest to such proportion of total interest payable as the total taxable income bears to the total income from all sources. A taxpayer's income might include a large amount of exempt income, such as the interest on United States bonds, and his own interest deduction should be limited to that pro rata part which his taxable income bears to his total income.

The specific exemptions to individuals have been set at $500 for unmarried persons and $1,000 to married persons, with $200 additional for each dependent. We recognize that these figures mean an encroachment upon that subsistence minimum which all authorities agree should be exempted, but we have ventured thus far because of our desire to secure as wide a diffusion of the burden of the income tax as possible, and also because of the need of additional revenue from the tax. In section 5773-8(9) we have followed the policy already established in the inheritance tax in restricting the exempted contributions to those

given to such religious, educational, charitable and similar classes of institutions as are conducting a substantial part of their activities in this state.

5. Inasmuch as residence within the state is made the test of tax liability, fiduciaries are required to report and pay tax only upon such part of the income of trust estates as is paid to persons residing within the state. Partnership incomes as such are not taxed but the partnership may be required to make a return of income as a source of information regarding the income of the dividual partners.

6. The question has sometimes been raised as to the advisability of simply requiring taxpayers to file a copy of their federal returns, upon which the state income tax might be applied. We have considered the possibility of this course but have decided against it on the following grounds:

First, the conflict of tax jurisdictions. The federal government exempts various incomes derived from the state, such as interest on state bonds and the salaries of state officials and employees. A state need not do this and our proposed income tax law does not. On the other hand a state law must exempt entirely all federal agencies, even those which are not entirely exempted by the federal law, such as interest on the public debt and the salaries of federal officials.

Second, there are some other differences in the determination of gross and net income under the two laws. The federal personal income tax law is co-ordinated with a corporation tax, and dividends are exempted from the normal tax. The proposed law for Ohio does not exempt dividends received by the individual. In the same way the federal law would permit a deduction of the state income tax, but this is not allowable under our bill. Our provision for the deduction of interest on indebtedness and of losses differ from those in the federal law. These and other possible points of difference would really necessitate a separate return, or at least a supplementary return whereby the proper correction could be made in the first return, so that little would be gained by the effort to rely on duplicate returns.

Finally, it is very much more desirable from the administravtive standpoint, to have a separate return made to the state. We have been strongly advised against the plan of duplicate returns by the tax commissioner of Connecticut, whose experience with the other system in the taxation is to follow up and check the indefinite number of corrected and amended and supplementary returns which are being made. While the Connecticut plan has involved the taxation of corporations rather

than individuals, we preferred not to take the chance of similar difficulties with the individual return. Further, our system of assessment and collection makes it necessary for state and local officials to have complete control of the returns, and to give to these officials the complete authority to decide whether or not a return should be made and a tax paid by any person.

The administration of the income tax requires the establishment of a fairly complete organization, connected with, and yet supplementary to the existing administrative organization. The state tax commission is placed in general charge of the income tax and in order to enable this body to carry the additional burden we have added a fourth member to that body (section 1465-1). This presents the additional advantage of making the tax commission a bi-partisan administrative board.

The county auditor is made local assessor of incomes, ex-officio, and is required, insofar as this act is concerned, to obey the orders and instructions of the tax commission and to make such reports to it as the commission may direct. He shall appoint such deputies and other assistance as the commission may authorize and at rates of compensation established by the latter. Returns are to be made by taxpayers to the auditor of their respective counties of residence. Fiduciaries are to make returns in the counties in which the beneficiaries reside, or if the estate is held for contingent beneficiaries or for future distribution, in the county of residence of the fiduciary.

The county auditor shall make the assessment of income tax and certify a duplicate to the county treasurer, by whom the tax is to be collected at the same time and in the same manner as other taxes, except that the whole amount shall be collected at one time, which will naturally be the next date for tax payment after the return has been filed and the income tax assessed. This date will depend, therefore, upon the date on which the taxpayer's fiscal year closes. For the convenience of those yho have become accustomed to the federal methods, it is provided that any taxpayer may pay his tax at the time of making his return, subject to subsequent correction and final determination of the tax due by the county auditor.

Appeals from the assessment as made by the auditor are to be taken to the common pleas court of the county wherein the collection is to be made. These cases are to be given precedence on the docket and heard promptly, and in the meantime the tax appealed from shall not be collected. A condition precedent to the appeal is a bond given to the

county auditor by the taxpayer for the performance of the decree and the payment of costs.

The tax commission may acquire information at the source by requiring appropriate reports from all companies which now make reports to the commission, and also by requiring similar information from all other persons, firms or corporations which now report to any other state officer. The commission shall furnish the blanks and forms suitable for the collection of the information required and the other state officers are required to assist in collecting and forwarding this information to the commission. Suitable provision is made for securing secrecy of the returns, and a penalty of not to exceed $1,000 fine and one year imprisonment, or both, with forfeiture of public office or employment, may be imposed upon any officials or employes who violate these provisions.

Contracts or covenants to assume the tax are made void, because the object of this law is to tax each individual on his taxable personal income, and the tax assumption covenant defeats this purpose by introducing exemptions for the individual which are not compatible with this purpose.

We have made some effort to estimate the yield which might be expected from such a tax on incomes as we have here proposed. The yield of the income tax depends, of course, upon the rate and the volume of taxable net income that will be returned by residents of the state. It is impossible to ascertain the latter, and we have been compelled to rely upon estimates based on the returns made under the federal income tax law by residents of the state. The latest material available on this point is found in the Statistics of Income compiled from the Income Tax Returns for the calendar year 1917. In this report no analysis was made of the incomes between $1000 and $2000, and we are therefore completely in the dark as to the amount of revenue which may be expected from the taxable incomes below $2000. Our estimate of the yield of the tax on incomes above $2000 is presented herewith.

(1)	Total income returned for calendar year 1917		$598,090,922
(2)	Personal Exemptions	$194,019,000	
(3)	Contributions	13,745,314	
(4)	Federal Income and Excess Profit Taxes	30,989,654	258,753,968
(5)	Total Taxable Net Income		$359,336,954
(6)	Taxable Net Income, $2,000 to $4,000	$53,130,854	
	Tax at 1%	$531,308 54	
(7)	Taxable Net Income, $4,000 and over	306,206,100	
	Tax at 2%	$6,124,122 00	
	Total Taxes	6,655,430 54	

For the sake of completing our estimate, let us assume that the number of returns of taxable income between $500 and $2000 will be equal to the number of returns of $2000 and over. (In 1917 the number of returns between $1000 and $2000 was 47.25% of the total.) Let us assume further that the total net income returned in such groups is one-fifth of the amount returned in the other classes (in 1917 this ratio was 18.04%). This would mean that 95,396 taxpayers would return $119,618,184, or an average annual income of $1253. On the further assumption that the ratio of taxable to total net income between $500 and $2000 would be the same as between 2000 and 4000, the taxable net income would be 30.25% of $119,618,184, or $36,184,500, and the tax on this amount at 1% would be 361,845. The total tax on this basis would be $7,017,275.

We realize that calculations of this sort are only roughly approximative, in view of the many factors which cannot be accurately considered by reason of the meager data available. We indulge in speculations of this sort for the purpose of providing ourselves with some basis, however insubstantial it may be, upon which to adapt the income tax into our general estimate of the relief to be obtained from the new taxes as proposed. We might say that the Ohio income tax law as we have drafted it may be expected to yield between $7,000,000 and $8,000,000, and in our summary to Chapter III we have used the lattee figure, although we realize that it is doubtless too high.

We have proposed to divide the yield of the income tax between the state and the local subdivisions entitled to share therein, namely the municipal corporations and townships, in the ratios of ¼ and ¾, respectively. This would give the state about $2,000,000.00 and the local units, about $6,000,000.00 on the assumption of an $8,000,000.00 yield We have found that the probable shortage of state revenues will be between $1,000,000.00 and $4,000.000.00 and this proportion brings the state revenues fairly well into balance with expenditures for the present biennium. Of the portion distributable locally the cities will receive by far the larger share, for the income tax is everywhere characteristically an urban tax. About 37% of the federal income tax of 1918 was paid from New York State, according to Professor Seligman of Columbia University, and of this amount 87% was paid from New York City. Milwaukee County, Wisconsin, with 18.86% of the population of the state, was assessed for 44.01% of the total income tax in 1916. We may expect a similar distribution of taxable net income and income tax yield in Ohio, which means that the cities will actually obtain some relief by

securing by far the larger share of the 75% allotted locally, although, as we have shown above, this relief will be insufficient for 1920.

Signed:

FRANK C. PARRETT, Chairman,
WILLIAM AGNEW,
WALLACE W. BELLEW,
JOHN E. HOLDEN,
FRANK E. WHITTEMORE,
RUPERT R. BEETHAM,
R. M. BILLINGSLEA,
MILTON CLARK,
EDWARD J. HOPPLE,
HUSTON T. ROBINS,
FRANCIS M. THOMPSON.

On account of illness Senator Thomas M. Berry has not been able to attend the sessions of the committee, nor to sign the report.

APPENDIX

TO THE

Report of the Special Joint Taxation Committee

OF THE

83rd Ohio General Assembly

A REPORT

ON THE

OPERATION OF STATE INCOME TAXES

BY

HARLEY L. LUTZ, Ph. D.

PROFESSOR OF ECONOMICS IN OBERLIN COLLEGE

Presented to the Special Joint
Taxation Committee

September 18, 1919

LETTER OF TRANSMITTAL.

To Senator FRANK C. PARRETT,
Chairman of the Special Joint Taxation Committee, Columbus, Ohio.

DEAR SENATOR PARRETT:—

I take pleasure in presenting herewith my report on the operation of State Income Taxes.

Respectfully submitted,

HARLEY L. LUTZ.

September 18, 1919.

When Professor Seligman published the first edition of his extensive work on Income Taxation, in 1911, he concluded an exhaustive survey of the methods and results of state income taxation with the generalization that the income tax should be administered by the federal government.[1] He was forced to this conclusion by a consideration first, of the experience of the American states in their efforts at income taxation during the 19th century, and also, because of the increasing importance of interstate transactions with the resultant difficulty of dividing or allocating such incomes to the several states. The second of these considerations still remains, and will doubtless always constitute a very real difficulty to the equitable operation of a state tax upon incomes. The first ground of objection has been so successfully met, however, during the past eight years by at least two states that we may now reasonably enough postulate that a new era of income taxation has been reached. That is, we have not solved, and we probably shall never solve satisfactorily all of the problems of interstate apportionment, although some progress has been made in this direction; but we do know how to overcome the other difficulties which proved so serious in the earlier experiments. These difficulties were administrative defects, and they led to general and complete failure. The following summary of the causes of this deficiency by a careful student of the earlier state income taxes may serve as a kind of historical guide post:[2]

"A careful study of the history of the tax leads one to the conclusion that the failure has been due to the administration of the laws. This conclusion is borne out by both the admissions of the advocates and the assertions of the opponents of the tax, and is corroborated by the reports of tax commissions. The causes operating to produce this failure in administration appear to have been four; the laws themselves have been defective in the provisions for their own administration; the officials have been lax in the enforcement of the laws; the taxpayers have been persistent in evading them; and the nature of some incomes has made them especially difficult to reach. The income tax thus far, failing to recognize the weakness of the average taxpayer, have allowed him to return his own income. Some argue that to employ any other method would be undemocratic and that public sentiment would never submit to it. However, although the public has always opposed any inquisitorial system, the opposition has been often due rather to the fear that it may attain the end sought than that it is counter to the spirit

[1] Seligman, *The Income Tax*, 1911, pp. 418-429; 654-655.
[2] Kinsman, The Income Tax In the Commonwealths of the United States, *Pub. Amer. Econ. Assn.*, 1903, p. 117.

of democracy. * * * We have yet to learn of a plausible argument in support of the assertion that the income tax is more inquisitorial than other forms of direct taxation. The income tax has succeeded in nations quite as democratic as the United States. Other methods than self-assessment have been employed successfully, both by foreign nations and to a limited extent by some of our own states."

The first of the modern state income tax laws was passed by the legislature of Wisconsin in 1911. In this state the movement for an income tax received its first impetus in the very general dissatisfaction which had been aroused by the inequitable operation of the property tax as applied to personal property. A constitutional amendment authorizing an income tax was adopted in 1908 by a large majority.[1] A tentative measure was introduced in 1909 and adopted in 1911. From the very outset the success of this measure was in such marked contrast with the earlier state experiences that a number of states have since resorted to this form of taxation, though not all of them have seen fit to follow the Wisconsin law in its most distinctive features, that is, its administrative methods which, more than anything else have made it successful.

The state income tax laws adopted since 1911 have been the following, which is a complete list so far as the writer can discover; West Virginia, Oklahoma, Connecticut, 1915; Massachusetts, 1916; Missouri, Delaware and Montana, 1917; New York, 1917 and 1919. Income taxes of the older sort are still in force in Virginia, North Carolina and Tennessee.

The income tax laws of the past eight years may be grouped into two classes, on the basis of their scope. In one group are those laws which apply to incomes of every sort, as in Wisconsin and New York. The former state has one general income tax law, the latter has enacted separate acts for the taxation of individual and corporate incomes. The other group, comprising all other states having income tax laws, have applied these laws to a limited class of incomes. In Massachusetts, Oklahoma, Delaware and Missouri, the tax is levied on the income of individuals only, and in Massachusetts the scope of the law is further confined to certain classes of individual income. West Virginia, Connecticut and Montana levy the tax upon corporate incomes only. There is, thus, a considerable variety in the form of the state income tax laws, in

[1] The Wiseonsin constitution now contains the following tax provisions: "The rates of taxation shall be uniform and taxes shall be levied upon such property as the legislature shall prescribe. Taxes may also be imposed upon incomes, privileges and occupations, which taxes may be graduated and progressive, and reasonable exemptions may be provided". Art. I, Sec. 8.

part due to the differing local conditions which gave rise to the several tax laws, in part due to the need of adaptation to the other features of the local tax system, and in part perhaps due to an inevitable tendency among the states toward heterogeneous and even conflicting methods of legislation upon the same subject.

The National Tax Association's Report on a Model System of State and Local Taxation has given ample recognition to these varying local conditions and in our interpretation and comparison of the various state laws we need to bear this in mind. It does not follow that the plan adopted in each state was the one best adapted to the local long run needs, for in some states there are very definite tendencies toward modification, chiefly in the direction of a broader scope of the tax. This committee will doubtless be in a position to decide upon the general type of income tax law which will best suit Ohio's needs. It is hardly necessary to urge that insofar as Ohio is able to promote uniformity in state legislation by observing the recommendations of the model system, it would be of the greatest advantage for this and for other states.

The plan of this report will be first to describe each of the more important state income tax laws and to indicate in each case some of the conditions which had to be met and the results which have been attained; and then to develop some general considerations which may be drawn from the study as a whole. Detailed consideration will be given only to the laws of the four states visited, and for convenience the discussion will follow the order of the field trip.

Massachusetts.

The foundation for the Massachusetts income tax law was laid by a constitutional amendment which was adopted in 1915. The text of this amendment is as follows:

"Full power and authority are hereby granted to the General Court to impose and levy a tax on incomes in the manner hereinafter provided. Such a tax may be at different rates upon income derived from different classes of property, but shall be levied at a uniform rate throughout the Commonwealth upon incomes derived from the same class of property. The General Court may tax income not derived from property at a lower rate than income derived from property, and may grant reasonable exemptions and abatements. Any class of property the income from which is taxed under the provisions of this article may be exempted from the imposition and levying of proportional and reasonable assessments, rates and taxes as at present authorized by the constitution. This article shall not be construed to limit the power of the General Court to impose and levy reasonable duties and excises".

The conditions which gave rise to the income tax in Massachusetts were in general similar to those which had led the people of Wisconsin

to take such a step. In a word, it was the utter breakdown of the property tax when applied to personal property. The specific evils which finally created an intolerable situation in Massachusetts were:

(1) The concentration of property into a small number of favored towns where tax rates were low and assessors extended a cordial welcome to wealthy immigrants.
(2) The creation of an artificial demand for tax free securities, such as the shares of Massachusetts corporations, to the detriment of the whole investment market.
(3) The migration of property from the state.

These evils were discussed by the Joint Legislative Committee of 1915, which recommended the income tax law, in the following language:

"In addition, in answer to inquiries, the Commission received replies from assessors, confirming the general impression that where an attempt is made to enforce taxation at a high rate on intangibles, the result is that owners of such property either change its form to non-taxables or remove their residence to some other city or town having a low rate or where the law is not so strictly enforced, or to some other state having tax laws favorable to the owners of intangibles. Among the places mentioned to which removals had been made were Orleans, Dover, New York, Rhode Island, Connecticut, New Hampshire, Maine, Florida, and California, and in many cases the names of the persons who removed for this reason including some well-known citizens, were given:"

These considerations and other elements in the local situation gave preference in Massachusetts to a tax upon the income from certain intangibles, and upon certain classes of earned incomes. The Massachusetts act, accordingly, subjects to taxation income of the following classes, and at rates indicated in each case:

1. Income to be taxed at 6%:
   (1) The interest from bonds, notes, moneys at interest, and all debts due the person to be taxed, except:
      (a) Deposits in any Massachusetts savings bank or savings department of a trust company, to the limit allowed by law;
      (b) U. S. bonds and such state and local bonds as are now exempt from taxation;
      (c) Loans secured exclusively by mortgages on real estate if situated within the state, to the amount not exceeding the assessed value of the real estate.

(1) *Constitution of Massachusetts,* Amendment 44.
(2) Bullock, *The Income Tax,* published by Old Colony Trust Co., 1916.
(3) *Report of the Special Committee on Taxation,* 1916, pp. 38-39.

If the total taxable income from the above sources does not exceed $600, an exemption of $300 is allowed, provided that in the case of a married person, the exemption is not allowed if the combined income from all sources is in excess of $1,200.

2. Income taxed at 3%.
   Excess of gains over losses received from dealings in intangibles, whether the taxpayer is engaged in the business of dealing in such property or not. No exemption.

3. Income taxed at 1½%:
   (a) Income from annuities. If the total income from all sources does not exceed $600, an exemption or $300 is allowed, but only one such exemption may be claimed.
   (b) Incomes from professions, employments, trade or business, in excess of an exemption of $2,000.

In order to meet a situation arising from the decisions of the Massachusetts courts, the following paragraph was added to section 2, relating to the tax on the income from intangibles:

"For the purpose of this act any securities of the classes designated in this section, held in pledge, or on margin or otherwise, by an agent or broker as security for a debt of his principal, whether such securities stand in the name of the principal or any other person, shall be deemed to be the property of the principal, and the income arising therefrom shall be included in the total income of the principal under this section."

In the decisions referred to the court had held that for purposes of taxation such securities were the property of the agents, and the Joint Committee recognized that inasmuch as the principal was the real party at interest the income tax should be imposed upon him.

A further question is still unsettled in the federal courts and for the time being was disposed of in the following terms:

"No distribution of capital, whether in liquidation or otherwise, shall be taxable as income under this section; but accumulated profits shall not be regarded as capital under this section".

One of the few cases in which the law has been taken to the courts involved this point, and the court sustained this passage as applying to stock dividends and to subscription rights, and upheld the constitutionality of a tax so imposed.[1]

The double taxation argument was successfully invoked at the time to prevent the extension of the income tax to all personal incomes of

[1] *Tax Commissioner v. Putnam,* 227 Mass, 522.

whatever sort. This recognized defect is now under consideration and both administrative officials and legislative leaders are looking forward to the improvement of their income tax in this particular. Under the spell of the same argument complete exemption was extended to all property the income of which is taxable under section 2, that is, intangibles. In its extreme form the double taxation argument, thus applied, is not sound in principle, and there need be no hesitation in treating the income from real estate and tangible personal property as separate objects of taxation from the visible properties themselves. In the case of intangibles the point has more weight because of the purely representative character of this form of property. Excessive double taxation of intangibles has been universal under the general property tax, and the Ohio practice has been no exception. It appears to be rather important, therefore, that the legislature be given power to classify or exempt such property.

The tax on business incomes was a re-enactment of an income or "faculty" tax which had been in use since the colonial period. The new act had the merit of substituting a definite and practicable plan of income taxation for the indefinite and inadequate provisions on this subject which had occupied the Massachusetts statute books for over a century. This section is summarized thus by the Joint Committee:[1]

> Taxable income is defined to include the gross income from the profession, employment, trade or business, including profits from the sale of capital assets employed therein, less the following deductions: a) expenses incurred; b) a reasonable allowance for depreciation and obsolescence of property employed in the trade or business; c) taxes paid within the year; d) interest paid upon indebtedness incurred in connection with the trade or business; e) losses from the sale of capital assets or losses sustained by fire theft, etc.; f) bad debts incurred in the trade or business, and actually charged off during the year; g) an amount equal to 5% of the assessed value of the tangible property employed; and h) the sum of $500 for a husband or wife with whom the party lives, and $250 for each child under 18 years of age, or parent actually dependent, but not to exceed in all $1,000."

Most of these deductions are of the kind ordinarily allowed by income tax laws. The influence of the double taxation sentiment is seen in the deduction (g), and at the time that this objection can be overcome, it is anticipated that such a provision will be removed, in favor of a low tax on tangible property, in line with the proposal of the National Tax Association Committee on a Model System.

Subsequent sections of the act authorize the use of such fiscal year and such method of accounting, cash or accrual, as are most convenient to the taxpayer. The income of the estates of deceased persons is taxed

[1] *Report of the Special Commission on Taxation* 1916, p. 50.

to their estates, and the administrator or executor is made liable for the taxes assessed. In the case of property held in trust, the principle was introduced of making the domicile of the beneficiary the test of determining liability to taxation. An inhabitant of Massachusetts is required to return income received from non-resident fiduciaries, and all citizens of Massachusetts who may be acting in such a capacity are required to pay the tax on account of income paid to residents of the state. For administrative convenience in such cases the tax is assessed to the fiduciary.

The profits or income of the classes made taxable by the act, of partnerships, of which any member is a resident of the state, are subject to taxation. If any member is not a resident, a deduction corresponding to the relation of the aggregate interests of non-resident members to the whole assets is allowed. The tax is assessed to the partnership as such and the members are individually exempt on such income.

The sections providing for returns by those liable to taxation under the act, and for penalties in case of failure to file, or delay in filing returns, are comprehensive and adequate. The return of income for the previous calendar year must be filed on or before March 1, and for each unauthorized day of delay, a penalty of $5.00 is imposed. Fraudulent returns and refusal to correct an incorrect or incomplete return after notice from the tax commissioner, are punished by a fine of $100-$10,000, or imprisonment for not more than one year, or both, and forfeiture of the right to hold public office in the state for five years.

The provisions for administration are among the most important in the entire act, for the success of the tax in Massachusetts as in Wisconsin, has been very largely due to the new method and principle of administration which has been introduced. The essential feature of the administrative provisions is their centralization. The whole administration of the law is placed in the hands of the state tax commissioner, and the active direction of the work is delegated to an income tax deputy who is chosen by the tax commissioner with the advice and consent of the governor and council. The tax commissioner is also required to divide the state into tax districts, and with the advice and consent of the governor and council he shall appoint an income tax assessor for each district. He may change the limits of the districts and transfer assessors from one district to another. Preference is to be given in these appointments to residents of the districts. The tax commissioner may also appoint deputy income tax assessors, who may be members of boards of assessors of cities or towns. Concerning the basis of selecting these various assistants, the income tax deputy writes as follows:[1]

[1] *Personal Letter from the Income Tax Deputy,* September 1, 1919.

"I am glad to say that partizanship has not figured very materially in the majority of cases. The appointments are made by the Tax Commissioner and must be approved by the Governor and Council. In general this approval has been pretty freely granted without very much political pressure. We try to select men who have had both a broad acquaintance with people in the district in which they are to serve, and also some knowledge of law and accounting. Several of our appointees are young lawyers and many have had accounting experience. Freedom from politics is a matter of paramount importance in the successful administration of the law."

The testimony from every available source in Massachusetts confirmed this view of the advantages of political freedom in administration, and of centralization. The proper and adequate and equitable assessment of incomes involves a considerable degree of firmness and inquisitorial authority in dealing with the individual taxpayer. It would be fatal to the successful administration of such a tax law if those in contact with the taxpayers could be in any degree influenced by local, or partisan, or business or other reasons. It cannot be too strongly emphasized, therefore, that the whole administration of the income tax, from top to bottom, must be absolutely removed from all of these influences and that every appointment should be placed, so far as this is possible, on a merit basis.

In return for these effective administrative provisions, the taxpayer must be protected by secrecy of his statements. Only the duly authorized officials and clerks may inspect the returns in Massachusetts, and a severe penalty is laid upon any disclosure of individual returns. The tax commissioner is now required to say, in response to inquiry, whether any person has filed a return or not.

For the actual calculation and assessment of the amount of income tax due, there have been developed, in general, two methods. One method, which is illustrated in the federal practice, is to require the taxpayer to calculate the tax due and remit all or a part of it with the return. After an audit, which is supposed to be made promptly but which may not occur until a lapse of one or more years, the correctness of the return and the payment is finally determined. The other method, which is found in Massachusetts, is the calculation of the tax due by the administrative officials. Returns are due by March 1, the assessment or determination of the tax due is made in the office of the income tax deputy and tax bills are mailed, by September 1; and the tax is payable by October 1. This plan has the merit of a prompt determination of the tax due, although it is open to the objection of hasty auditing, additional clerical and postage expense, and possible inaccuracy due to crowded work. On the other hand it may lift a part of the burden of preparing the tax return from the taxpayer. Certain deductions allowed from the

interest and dividends taxable under section 2 are permitted by section 3, and the calculation involved in this deduction are necessarily performed by the tax officials, since the method of determining the deduction provided by the section is almost certainly incomprehensible to the average taxpayer.

A necessary part of the administrative machinery of every tax act is the procedure for review and abatement of assessments. This is always a difficult problem, for neither of the practicable alternatives is wholly satisfactory. In general, the tax assessing and administrative officials may be designated as a reviewing board, whose findings on the facts may be final; or an appeal may lie to some outside authority, usually a court, which is often lacking in the technical qualifications required for passing upon disputed issues of fact. All things considered the review upon the facts should be conducted by the higher taxing authorities, with proper safeguards for the protection of all legal rights by the courts.

The Massachusetts procedure really combines these alternatives. Any person aggrieved by the assessment of a tax under this act may appeal to the tax commissioner within three months. In case of dissatisfaction with the tax commissioner's ruling, the appeal may be carried either to a board of review, consisting of the treasurer and auditor of the Commonwealth and a member of the governor's council, or to the superior court of the county of his residence or place of business. The former alternative permits cases involving small amounts to be reviewed without great expense. Thus far the whole number of such appeals has been small, and the issue most often raised has been that of domicile.

Information at the source is provided by requiring all corporations, associations, partnerships and trusts to file lists of all employes residing in the state to whom wages or salary in excess of $1,800 was paid during the preceding calendar year. Foreign corporations doing business in the state are required to file a list of their Massachusetts stockholders and bondholders to whom dividends and interest were paid. The treasurers of cities, towns and counties, and the state auditor, are required to file lists of employes receiving more than $1,800.

The problem of distribution of the proceeds of the income tax proved impossible to settle out of hand, and the Joint Tax Committee proposed a temporary arrangement which was readjusted each year until 1919, when a permanent plan of distribution was adopted. The constitutional amendment which authorized the income tax did not impose any restriction upon the manner of the distribution of the proceeds, and the legislature was therefore free to work out a long run advantageous arrangement.

The plan for the first year was to preserve the status quo by permitting each city and town to receive as much income and personal property tax in 1917 as they had received from the taxation of all classes of personal property in 1916. Any surplus above the amount of income tax collections required for this purpose was to be distributed locally in the proportion of the state tax levy for 1917. The state is at all times to retain enough to pay the costs of administration. After temporary modifications in 1917 and 1918 a final plan was inaugurated in 1919, under which the state retains, as before, sufficient to pay the costs of administration, and distributes the balance in two ways. First, to each city, town and district shall be given such proportion of an amount equal to the difference between the average amount of tax levied upon personal property in such city, town or district in the years 1915 and 1916, and the amount, calculated by the tax commissioner, that would be produced by a tax upon the personal property actually assessed in 1917 and 1918 at the average rates which prevailed therein in the years 1915 and 1916, as is 90% thereof for 1919, 80% thereof for 1920, and so on to 1928, when this feature of the plan will disappear. Second, in any year the surplus of the tax shall be distributed in proportion to the state tax levies, and after 1928 the whole proceeds shall be so distributed.

This final allocation plan was the recommendation of another Joint Taxation Committee, which reported in 1919. This committee considered the question of a distribution according to source, but advised against it, and the income tax deputy spoke very strongly against such a plan. Some of the difficulties which he anticipated were incident to the local situation and to the particular kind of income tax which is now in force for Massachusetts, but the problems of domicile, and the intricate accounting problems involved in the determination of actual source of the income, are universal. In this sense, the determination of the source of incomes and the apportionment among districts is the interstate problem in miniature. The general difficulty can only be solved by an arbitrary plan of apportionment which preserves as much as possible of the equities in the case. Such a distribution according to source is attempted in Wisconsin, and it is accomplished by an arbitrary rule which is discussed later.[1]

The first result of these years of income taxation in Massachusetts has been a greatly improved attitude of taxpayers toward the whole question of assessment and taxpaying. This change, which was testified to by lawyers and business men as well as by the state tax officials, is the result of the better equalization of the tax burden which is accomplished under the income tax. The advantage which was once obtained

[1] See below, p. 116.

by the colonizing movement is now negatived, and the strict, impartial and efficient administration of a state-wide tax has made competitive tax dodging quite unpopular. The people generally have already accepted the income tax as a matter of course, they are rapidly adjusting their affairs to it, and there appears to be a general confidence in the adequacy and honesty of its operation.

Another gain is in the increased revenue which the income tax has produced. The following table from the tax commissioner's report for 1917 shows the preliminary results under the first assessment:

(000 omitted.)

Class.	No. of Returns.	Business Income.	3% Gains.	Annuities.	Interest and Dividends.	Exemptions, 6% Class.	Total.
Individuals	162,217	$1,625	$608	$24	$6,435	$103	$8 693
Partners	10,071	924	176	.....	453	7	1,553
Fiduciary	13,895	12	51	.....	1,349	5	1,411
Total	186,183	$2,562	$835	$24	$8,237	$115	11,658
Balance estimated	5,000	15,000	1.5	.....	461	5	477
Totals	191,183	$2,577	$837	$24	$8,698	$.20	12,135

The amount of intangibles assessed in 1916 and the tax derived therefrom are not ascertainable since the Massachusetts tax returns did not separate the two classes of personalty. It required $8,120,621 to reimburse the cities and towns in 1917 for the loss in taxes due to the decrease in the total personalty assessed in 1917 below the amount assessed in 1915. This decrease represents the amount of tax which, it is assumed, had been derived from intangibles, plus a small allowance for a fuller disclosure of tangible property in 1917. Estimating the loss due to the $300 exemption and that due to the exemption of non-resident beneficiaries of estates and trusts at $2,100,000, the former yield of that part of the intangibles which paid income tax in 1917 was about $6,367,000 to $6,867,000. The new tax represented, therefore, a real gain of about $2,000,000 in the first year. The old tax on business incomes produced $770,228 in 1916, as compared with $2,577,061 under the new law. The 3% tax on gains from dealings in intangibles was new, and produced $837,000. By July 31, 1919, the net assessment of incomes for 1917 had reached $12,449,655, through various corrections and additions made by the tax commissioner. The assessment for 1918, at the date of publication of the annual report, was $14,387,339. The assessment for

1919 was in progress during the summer and no figures were available. It is quite evident, however, that the income tax on interest and dividends is proving to be very much more productive of revenue than was the former tax at high rates on the capital value of such intangibles as were listed. This fact is the clearest possible evidence of the extent to which successful evasion went on under the earlier tax system, and demonstrates beyond doubt, cavil or contradiction the wisdom of the change made.

The new tax is not only yielding more revenue, but it is distributing the taxes on this class of property vastly more equitably than could possibly have been the case before. Under the general property tax the owners of large amounts of intangibles either escaped entirely, or secured immunity by emigrating to one of the numerous tax colonies in which, in return for a moderate compromise assessment, an absurdly low tax rate was established. Of one of these tax colonies the Joint Commission of 1919 wrote as follows:[1]

"The most famous case was of the town of Orleans, which in 1910 had taxed $181,000 of personal property at the rate of $15 per $1,000. The next year the assessment of personal property was increased to $968,000 and the rate fell to $3.00. In 1915 assessment of personal property had further increased to $3,941,000 and with the corporation and bank taxes it was necessary to make the most lavish expenditures for highways and other improvements in order to have any rate at all".

The wealthy owner of intangibles is no longer able to purchase immunity for himself at the expense of the small investor, the widows and orphans whose funds are in the hands of fiduciaries, and that small band in every community whose exaggerated sense of honesty compells them to list every dollar of their intangibles regardless of the general practice of the community and regardless, too, of the fact that their action subjects them to substantial confiscation of the income from their property. So far as intangibles are concerned, the Massachusets law has the supreme merit of effecting a genuine and lasting equalization of burden among the owners of intangibles by widening the tax base and lowering the tax rates.

This equalization of tax burden has been improved also as between the whole class of intangibles and the property which remains subject to taxation at local rates. The increase of revenue from the intangibles is the best evidence of this improvement. The method of distribution which was adopted tended to stimulate the local assessment of tangibles, for each community's share of the income tax was influenced by the margin between the total assessment of personal property before the income

[1] *Report of the Joint Special Commission*, 1919, p. 44.

tax act went into effect and the assessment of personal property remaining subject to local taxation in the year following. Every local assessor was therefore under a stimulus to increase the assessment of tangibles, and considerable progress has been made in overcoming the loss to the grand duplicate due to the withdrawal of intangibles, as the following table shows:

TOTAL ASSESSMENT OF PROPERTY YEARS 1916-1918. (000,000)

Year.	Assessed Personal, excluding Bank stock.	Resident Bank stock.	Buildings.	Lands.	Total.	Grand Total.
1916	$1,208.0	$33.2	$1,998.1	$1,687.0	$3,685.1	$1,926.1
1917	694.7	30.3	2,091.0	1,715.5	2,806.8	4,531.8
1918	817.5	32.7	2,149.6	1,734.6	3,884.2	4,734.5

The first column included in 1916 all personalty, but in 1917 and thereafter it includes simply the tangible personal property. It is significant that the assessment of tangibles increased $122,700,000 in 1918 while the aggregate of lands and buildings increased only $74,300,000. Such a relative rate of increase will of course not be maintained, but this growth in the assessment of tangibles, together with the increased revenue which is being obtained from intangibles under the new system, shows conclusively that a wholesome redistribution of tax burden as between real estate and personal property is in process.

Another beneficial result of the income tax in Massachusetts has been a better equalization of distribution of tax burden among the various communities of the state. Reference has already been made to the vicious practice of tax colonization which was so notoriously common under the former system. This is a practice which is not unknown in Ohio though it has probably not attained the proportions that it did in Massachusetts. And yet, there are possibly hundreds, even thousands of instances over the state, of citizens who have maintained a tax domicile or residence in a country place or small village in order to obtain the advantage of low tax rates. Enough property has been returned in these districts, with their small revenue needs, to keep the tax rates down, while the growing municipalities in which these individuals have conducted their successful and profitable business operations have groaned under excessive rates or have been threatened with finan-

cial asphyxiation under the onerous restrictions of our tax limit law. The system of distribution applied in Massachusetts has turned the bulk of the income tax receipts back to the deserving municipalities, because of the proportion of state tax which has been derived from these districts. The manufacturing towns which have really produced the income are enabled thus to derive a proportionate benefit from the tax, and so an equalization among communities has been effected.

The beneficial effects of the permanent income tax distribution scheme will henceforth be interfered with in some degree by an education bill passed in 1919, but this result is in no way to be attributed to the income tax itself, nor will it follow that an advantage will again accrue to the formerly flourishing tax colonies. The education bill aims at a redistribution of a portion of the income tax receipts on the basis of the needs of the schools, which means, in effect, and the act so provides, that the poorer school districts, with small property valuations and a lower range of salaries for school teachers, are to be aided in school maintenance by the more wealthy and prosperous sections. Under this plan it was estimated that the following cities would experience losses in 1919 as shown below:

City	*Receipts to School Fund*	*Loss From Income Tax*	*Net Loss*
Boston	$627,700	$1,187,355	$559,655
New Bedford	87,340	107,445	20,105
Springfield	136,700	159,432	22,732
Lowell	67,800	83,148	15,348
Lawrence	65,550	75,348	9,798
Fitchburg	29,600	37,128	7,528
Holyoke	53,610	60,099	6,489

These losses are serious and especially in the case of Boston will have rather disastrous effects for the present upon the property tax rates. There is no immediate prospect that the situation may be corrected within the income tax, but some other changes in the tax system may soon afford compensatory relief to the industrial centers. These changes relate to the system of corporate taxation and they will be briefly outlined because of their rather intimate bearing upon the personal income tax and also because they are suggestive of the course which this committee may wish to pursue with regard to the taxation of corporations.

The system of corporate taxation in Massachusetts is too complicated to be described in detail here. In brief it is a system of franchise valuation, which is taken to be the excess of the value of the capital stock over the value of property locally taxed (real estate, machinery),

property located outside the state and taxed where located and exempt securities. In 1903 the franchise assessment was limited to 120% of the valuation of real estate, machinery, merchandise and taxable securities. The assessment is made by the tax commissioner and the tax is levied at the average rate of taxation upon all property in the state.

It was inevitable that serious inequalities and injustices should develop in the operation of such a rigid and mechanical system of corporate valuation. These have been pointed out by the tax commissioner, by various students of the subject, and by more than one legislative committee. No definite proposals for change were considered until last year, when a special committee on the corporation tax recommended the abolition of the whole system of franchise taxation and the adoption of a corporation income tax. In order to safeguard the state's revenues this committee was obliged to include in its bill certain minimum provisions which amounted, in effect, to classification of property, since they involved the imposition of low tax rates on corporate property.[2] Such a classification was repugnant to the uniformity clause of the state constitution and this proposal was dropped. Because of the unprecedented state expenditures occasioned by the war emergency, revenue measures applying to corporations were passed which were substantially similar to the plan now in effect in Connecticut.[3] All corporations doing business in the state, both domestic and foreign, were required to file with the tax commissioner true copies of their returns to the commissioner of internal revenue under the federal income tax, and a tax of 1% was laid upon the corporate net income as shown by these returns. These laws were revived for one year in 1919.

Meantime, another Joint Legislative Committee on Taxation had been created to study the problem further, and this committee, reporting in 1919, was unable to endorse the corporation income tax plan of 1918 for the reasons given. It did recommend the submission of a classification amendment, which, if adopted, would make possible impartial consideration of the proposal. It advised further study of this plan of corporate taxation, which it held had not yet received general approval in Massachusetts. In the meantime it proposed certain changes in the existing system of franchise taxation which aimed at the elimination of the injustices while they provided larger revenues from business corporations. Under the change made one-sixth of the tax is retained by the state (being the average amount accruing to the state in the years

[1] *Report of the Joint Special Committee on Corporation Tax*, 1918, p. 10.
[2] *Report of the Joint Special Committee on Taxation*, 1919, p. 24.
[3] *Laws of Massachusetts*, 1918, chs. 253, 155; revived for one year by Laws, 1918, ch. 342.

1910-1917 on account of non-resident stockholders) and the balance is distributed locally in proportion to the assessment of tangible property of the corporations.[1] The increased amounts which will go to the industrial centers under this act will offset the estimated losses due to the education act of 1919. Incidentally, the state's revenues will be enhanced, to the general benefit of property locally taxed.

Certain changes in the rates of the income tax have recently been adopted which illustrate the flexibility of this part of the revenue system. It has long been the practice in England to vary the rate of the income tax in making the final adjustment between estimates of expenses and receipts. With the development of an adequate budget system in this country, a similar flexible adjustment might prove possible. The attainment of this ideal is yet far distant with us, but the Massachusetts experiments prove its feasibility, from the revenue side. In 1918 an increase of 10% was ordered in the amount of tax collected under section 2, that is, interest and dividends.[2] This was an emergency measure, in effect for one year only. In 1919 the rate on business incomes received during the years 1918 and 1919 was subjected to an additional tax of 1%.[3] The exact yield of these measures is not available, but reference to the table on p. 97 will give some idea of the amount which might be available.

The cost of administration, while large in the aggregate, is a small proportion of the total tax collected. In this respect the income tax appears to conform to Adam Smith's proposition that a good tax is one which is "so contrived as to take out and keep out of the pockets of the people as little as possible over and above what it brings into the public treasury of the state". The expense for the first year was enhanced naturally by the outlays for equipment incident to the creation of a new division in the tax commissioner's office. The figures for the first two years follow:

	1917	*1918*
Total cost of Income Tax Administration	$226,356	$208,027
Percentage of total tax assessed	1.86%	1.44%

The Connecticut Tax on the Incomes of Corporations.

Connecticut's experience with income taxation has been of much more limited scope than that of Massachusetts. The act now in force

[1] *Laws of Massachusetts*, 1919, ch. 355.
[2] *Ibid*, 1918, ch. 252.
[3] *Ibid*, 1919, ch. 324.

was passed in 1915,[1] and required miscellaneous business corporations to make annually to the tax commissioner a true copy of the last return made by the corporation to the federal revenue department. A state tax of 2% was imposed upon the net income as this was computed under the federal law, to be paid into the state treasury for state purposes. In the act of 1915 an attempt was made to designate the definite deductions to be allowed from gross income. These deductions were similar in phrasing and meaning to the deductions permitted by the federal income tax in force at that time. Because of the frequent changes which were made in the federal law in the next two or three years it seemed advisable to substitute for the enumeration of specific deductions the simple requirement that corporations subject to the tax should report "such information as may be required by the United State treasury department for the purpose of ascertaining the total amount of net income taxable under the federal income tax act."[2] The forms prescribed by the tax commissioner have followed those used by the federal department, with spaces for the additional information required by the Connecticut tax commissioner.

Provision was made for supplementary returns and for collection or refund of tax in case of changes or corrections in the returns by the commissioner of internal revenue. Failure to make a return, or the making of a fraudulent return, was made punishable by a fine of not more than $10,000, and any person who made a false return with intent to evade the tax was made liable to a fine of not more than $2,000 or imprisonment for not more than one year, or both. In addition, a penalty of doubled tax was added for false return, and of 50% increased tax for failure to make a return. All books and papers were to be open to the inspector of the tax commissioner, and an appeal was allowed to the superior court of Hartford county.

This imposition by a state of a super-tax upon an object of federal taxation naturally involved the problem of apportionment of interstate income. The Connecticut method certainly possesses the advantage of simplicity, and it may be fully as equitable as some of the more complicated, but at the same time, arbitrary rules in use in other states. If the profit of a company doing business in more than one state were derived principally from the ownership, sale or rental of real estate, or if it were derived principally from the sale or use of tangible personal property, such proportion of the net income was to be taxed in Connecticut as the fair cash value of the real estate and tangible personal property in the

[2] *Laws of Connecticut*, 1915, ch. 292.
[1] *Ibid*, 1917, ch. 298.

state at the close of the fiscal year bore to the fair cash value of the entire real estate and tangible personal property, with no deductions on account of incumbrances thereon. If the profit were derived principally from the holding or sale of intangible property, the net income was to be apportioned on the basis of the relative gross receipts for the fiscal year within and without the state.

An evident defect in this method of apportionment, in the case of the first class of corporations, is the use of one figure, the fair cash value at the close of the fiscal year. It is possible under this provision for "window-dressing" to reduce the proportion of movable assets within the state by depletion of stocks, and in other ways. It is quite apparent, also, that with the spread of the plan of levying a super-tax upon corporate incomes including those from interstate business, serious complication will arise unless there is a uniform method of apportioning income. That this uniformity will not be attained is fairly certain, for the New York and the Wisconsin plans of apportionment both differ from the Connecticut plan. The conflicts of interest among the states are important and real, and in the years to come they may become a source of severe multiple taxation upon large interstate businesses, unless there is a genuine effort at uniformity at this point.

At the outset the Connecticut law was apparently simple enough and it produced a substantial revenue at a very slight cost of administration. In his report for 1916 the tax commissioner discussed these features of the law with enthusiasm and optimism and at the time there seemed to be good ground for his attitude. The subsequent experience is revealed by the figures showing the annual yield:[1]

(*Year.*)	(*Receipts in round numbers.*)
1916	$1,600,000
1917	3,180,000
1918	2,600,000
1919	1,700,000

These figures show that the peak was soon reached, and a steady decline after 1917 has brought the yield for 1919 down almost to the amount produced in the first year. The explanation for this loss is the provision which permits the deduction of federal income taxes; which of course includes the tax on excess profits. At the same time the administrative difficulties have been very greatly increased by the operation of this provision. This situation, with the loss of revenue and the administrative complications which it entails, will of course continue as long as the federal tax on excess profits endures. The general question of the deduction of federal taxes will be discussed in connection with the New York law.[1] With the administrative methods adopted it would have been rather incongruous for Connecticut to refuse the deduction, and of course, when the act was passed no such burden of federal taxation was anticipated as has actually come to pass. Neither did the administrative officials anticipate the very serious complexities which were to be introduced with the later federal legislation. The deputy in charge of the tax was positive that had Mr. Corbin been gifted with prophetic foresight, this particular plan of corporate taxation would never have been introduced. It has been especially troublesome to keep up with all of the amended reports which taxpayers have filed with the federal revenue officers, to check their accuracy, and to carry through the necessary administrative detail which this apparently endless succession of changes involves.

[1] Connecticut Tax Commission, *Report*, 1918, p. 52.

The act has thus far withstood the test, in the courts. The Underwood Typewriter Company refused to pay its taxes in each of the first three years, and the case was taken to the supreme court. With one dissenting vote the court held that the tax was not a restraint on interstate commerce, but a privilege tax, and within the field of the valid exercise of the state's power to tax. The law was also held to be not in violation of the 14th amendment, since it was a reasonable levy, on a reasonable apportionment of the company's income to the state.[2]

The New York Income Tax Law.

The financial situation in New York which led to the adoption of an income tax was quite similar to that which exists in Ohio today, although in some respects matters were even worse in the former state. The theoretical basis of the New York system was the property tax, but through two generations of ineffective administration this tax had become almost entirely a tax on real estate. Thus, in 1866 the proportion of personal property to total assessment was 25.5%; in 1870 it was 22%, in 1898, 14.6%, and in 1914, only 3.77%. At various times special taxes had been imposed on different classes of personal property, such as bank shares, mortgages, vehicles, etc. But all of the authorities agree that these exemptions have had no long run effect upon the amount of personal property assessed; rather, the state tax commission has insisted that they are indicative of the large amounts of taxable property which have continued to escape taxation.

[1] See below, p. 109.

[2] *Underwood Typewriter Co. v. Champion.*

The tax situation in New York has been the subject of serious study by a number of special tax commissions. The latest of these was a joint legislative committee, which published an admirable report in 1916. To this committee the legislature had submitted the following question—"How can the state most equitably and effectively reach all property which should be subjected to taxation and avoid conflict and duplication of taxation of the same property?" A part of the committee's reply to this question is as follows:[1]

> "Without passing upon the broad questions of public policy involved in the adoption of a new tax system which questions should more properly be decided by the legislature as a whole, this Committee, in answer to the specific question submitted to it, desires to state that all of the evidence presented and all our investigations, tend to show that the end sought for will be accomplished best by: 1) the abolition of the present tax on personal property; 2) the withdrawal of general business incomes from the provisions of section 182 of the tax laws; and 3) the imposition of an income tax on individuals and general business corporations, including manufacturing corporations."

The recommendation for a general income tax did not meet with legislative approval in 1917. The principle of income taxation was adopted, however, in the franchise tax imposed upon mercantile and manufacturing corporations.[2] This law was re-written in 1919 and little attention will be given the earlier draft except to note its place in the evolution of the New York income tax laws. It was very successful as a revenue producer. For the first eight months, November 1, 1917, to June 30, 1918, the comptroller reported collections amounting to $14,769,275.[3] The loss due to the withdrawal of these classes of corporations from section 182 (the franchise tax on capital stock) was reported as $172,466.

Nothing was accomplished by this act, however, to correct the inequalities and injustices in the operation of the property tax, to which the joint committee of 1916 had so ably called attention. Various interests in the state became active in pressing the campaign for a reform of the property tax, and in 1919 a legislative committee presented a bill for the imposition of a tax on personal incomes. This committee made no published report, but it established connections with many of the organizations which were interested in the subject and conducted a series of hearings in which various angles of the problem were presented. The outcome was the introduction of a bill in the preparation of which the

[1] *Report of the Joint Legislative Committee on Taxation*, p. 206.
[2] *Laws of New York*, 1917, ch. 726.
[3] Comptroller of New York, *Report*, 1918, p. xvii.

committee had had the assistance of a number of able students of taxation, including Professors C. J. Bullock, of Harvard University, and E. R. A. Seligman, of Columbia University. The bill was enacted without substantial change except for the transfer of the administration of the law from the state tax commission to the state comptroller. This change was made in the closing days of the session for partisan political reasons, as is frankly admitted on all sides in Albany.

This act, imposing a tax on personal incomes, together with the amended tax on business corporations, brings New York well into line in the practical application of the program suggested by the committee on a model application of the program suggested by the committee on a model tax system. Your committee has already decided upon a personal income tax, and the New York model is perhaps the best one for it to follow, although some features of that law were not approved by the leaders in taxation in New York and should not be introduced here. Instead of undertaking a summary of the act, a copy of it is made a part of this report and copies are put into the hands of the committee, (This bill is not here printed as a part of the report.) The space of this report is given over, then, to comments upon various features of the act, with special emphasis upon those points at which caution should be exercised in following the New York statute. For convenience in reference, the comments will follow the section numbering of the law.

Section 350. The practice of giving a list of definitions is characteristic of the New York tax laws. It is thoroughly commendable.

Section 351. The attempt to tax nonresidents upon the income from property owned and from business, trades, professions or occupations carried on in New York was inspired by a local situation which has no parallel in Ohio. A large number of persons do business or earn incomes in New York and reside in New Jersey, and the tax on nonresidents was confessedly aimed directly at this group. The taxation of nonresidents is not approved by the committee on a model tax system, and its argument against the practice is familiar to this committee.

Mooreover, this feature of the New York law has already been the subject of litigation, and was recently held unconstitutional by Judge Knox of the United States circuit court, the principal basis for the decision being that nonresidents were discriminated against in the deductions and exemptions allowed.[1] The case will go to the supreme court and in the meantime the legislature will be asked to correct the defects which seemed to weigh with the court. If possible New York will retain some means of taxing the "Jerseyites", but any state which has no such local

[1] *The Yale and Town Manufacturing Co. v. Travis.*

problem, and Ohio does not have, would better not make the attempt to reach nonresidents on their personal incomes.

Section 352. This section exempts intangibles from the property tax. The committee on a model system recommended this, and it is done in Massachusets and Wisconsin, as well as in New York. Whether it can be done in Ohio will of course depend upon the outcome of the next election. If the classification amendment fail, there would seem to be no authority for exempting intangibles, or even of taxing them at lower rates than are applied to other property. It appears, therefore, to be vitally necessary to the success of an income tax in Ohio that the legislature be free either to exempt intangibles entirely or to tax them at a much lower rate. The clause "and from which any income is derived" does not appear in the original draft. It is an ill-advised addition and will be meaningless in its practical effect.

Sections 355-358, dealing with gains through exchange, inventory, and the definition and computation of net income, follow the federal sections on the same subject, sections 202, 203, 212, 213, of the act of 1918.

Section 359. The definition of gross income in the first part of this section follows the federal wording, except for the inclusion of the income of certain federal officials. Sub-divisions (a), (b), (c) and (e) of the forms of exempt income are also identical with the federal provisions; sub-division (d), relating to the exemption of interest on government bonds, exempts specifically the investments on which the mortgage registry tax has been paid. Sub-division (f) exempts all of the income of persons in the military or naval service, instead of limiting the exemption as in the federal act. Sub-division (g) appears to be superfluous in view of the definition of gross income; it was written into the act for the reassurance of various religious and educational organizations.

Section 360. Many of the paragraphs of this section are taken directly from section 214 of the federal act. Paragraphs 1, 4, 5, 7 and 8 are transferred without change; 9 is similar except for a change in dates; 10 allows a 15% deduction on account of contributions to religious, educational or benevolent institutions, to residents only. Paragraph 2, dealing with the interest deduction, is an application of the suggestion of the National Tax Association committee to the effect that the interest deduction be proportionate to the ratio of taxable to total income. In other words, if there were a large proportion of income from tax-free investments, it would not be proper to allow all of the interest paid on debts as a deduction, but, rather, a proportionate amount according to the amount of exempt income originally deducted. The phrasing of

this paragraph is unfortunate for it contains two unknown factors, each dependent upon the other. The original wording conveys the idea:

> "The same proportion of interest paid or accrued within the year on indebtedness which the amount of such gross income, as here defined, bears to the gross amount of the income from all sources within and without the state."

Paragraph 3 permits a deduction of taxes other than income taxes imposed by the United States or any other state or taxing sub-division. The question of the propriety of this deduction is in some respects a moot point. From the revenue standpoint, the experience of Connecticut shows rather clearly that it is inexpedient to allow the deduction. A similar case may be made also from the standpoint of administration. By the logic of the case, either all taxes or no taxes except special assessments should be allowed as deductions; but from the accounting viewpoint it is probably better to permit the deduction of taxes in the determination of final or clear net income. If we accept the meaning of net income to be the amount which the owner of capital may use freely at his discretion without suffering impairment of his capital, then the tax is clearly a deductible item. But against the logic of the case stands the extensive federal encroachment upon the revenue resources of the states and localities, which the deduction involves, and the present provision probably represents the wise compromise.

Moreover, it should be noted that we are here discussing the terms of a *personal* income tax. A tax in general is a levy upon the income or wealth of the citizen, and there is no place in the concept of a tax for a guaranteed amount of income outside of, or over and above, taxes. If the tax cuts into income so heavily as to compel sacrifices, then the individual must face the alternative of bearing this sacrifice or of using his capital, if he cannot evade or shift the burden. We are seeking the true measure of capacity, and for the individual, on his personal income, the true measure of tax-paying ability or obligation is his net income without the deduction of a part of the burden, the basis for the measure of which we are here seeking. With regard to the business concern as a unit, the question becomes somewhat more serious, and the argument takes a different turn, *if* the total tax burden so cuts into earnings as to discourage further investment of capital. If it were possible to distinguish clearly between the economic enterprises of men and their personal affairs of other sorts, it might be possible to permit such a deduction in the one case but not in the other. That is, it might be feasible to deduct taxes from business income but not from personal income; but this line is impossible of discernment and we are effecting a "Scotch" compromise by allowing no deduction.

Section 361. This section relates to the items not deductible and is identical with federal section 215.

Section 362. The exemptions to individuals in paragraphs 1 and 2 are taken from federal section 216. They are allowed to residents. Taxpayers receiving compensation from the United States as employes or officials, are entitled only to such part of the personal exemption as is in excess of such compensation.

Section 363. This section provides a credit to non-residents on account of income taxes levied by any other state or country, provided that the other state or country allows a substantially similar credit to residents of New York subject to taxation under such laws.

This provision illustrates once more the difficulties which arise in the taxation of the income of non-residents. For example, the Massachusetts tax is levied on the income of residents only, and the allowance of a credit to residents of other states does not arise. But residents of Massachusetts are in some cases affected by the New York law, and have asked to be allowed the taxes paid in Massachusetts. The basis for this claim was the contention that no tax at all in Massachusetts upon citizens of New York was even better than a substantially similar credit. The argument was admittedly specious, but since the cases would probably always have been few in number, the point might have been granted had it not been for the fact that citizens of New Jersey must, of necessity, have been allowed a similar credit on similar grounds. Certain residents of Massachusetts are, therefore, made subject to double taxation on their income by the New York tax on non-residents.

Section 364. The greater part of this section is taken from federal section 219. In addition, the section provides that taxpayers may be called upon for a statement of the gross receipts and the net profits of the partnership.

Section 365. The section dealing with estates and trusts is identical with the federal section on this subject (219) except for certain provisions relating to estates created by non-residents, and the treatment of non-resident beneficiaries.

Section 366. This section is a necessary part of the plan for taxing non-residents. It requires withholding agents to return information concerning all persons on whose behalf they are required to make deductions on account of the tax. The section contains an error in specifying a deduction of 2%, whereas the act imposes a graduated tax of 1% to 3% (331). Judge Knox referred to this disrepancy, which had been corrected by administrative ruling, but did not regard it as material to the issue in the case.

Sections 367-371. These sections relate to the filing of returns and the adjustment to the taxpayer's accounting period. They require no particular comment.

Sections 372-374. These sections confer the administration of the act upon the comptroller of state. The original draft placed this administration in the hands of the state tax commission. As noted above, this change was made at the close of the session for political reasons. It is the general judgment in New York that the transfer was unwise from every standpoint. The present comptroller is personally opposed to the income tax, and appeared against the bill at the hearings. No brief was filed by his department in the test case before Judge Knox. The state tax commission has charge of the tax on the incomes of corporations, and has general supervision of all matters of taxation in the state. It is the logical body for the administration of this law, and should be left free from all partisan or other undesirable influences in this task.

Section 375. The appeal body referred to in this section is the state supreme court. It is unlikely that appeals will be taken with any freedom by the smaller taxpayers, under this section. Greater freedom of review should be provided.

Section 376. Adequate penalties are provided for failure to make a return, and for a false or fraudulent return. It is rather important that a tax law have "teeth" in it. Effective penalties go far to create respect for the provisions of the law, and a new law which has as an object greater degree of justice in the distribution of tax burden should not make evasion profitable by too light penalties.

Section 377. This section follows the federal practice of requiring payment of the tax with the return, with provision for a final settlement after audit. The alternative practice is illustrated in Wisconsin and Massachusetts. The principal argument in favor of the latter method is the greater convenience of the taxpayer, a point which constitutes another of Adam Smith's canons of justice in taxation. The low personal exemption which will probably be adopted in a state income tax means that a large number of persons will become liable to income tax who do not ordinarily have a bank account. These persons will be obliged to remit to the state by means of money order, draft or in cash. There will be additional expense and inconvenience to these taxpayers, and a possibility of some loss if cash is remitted. Payment to the local tax collectors avoids what might become a source of friction and complaint against the law.

Sections 378-381. Various administrative provisions relating to collection and recovery of taxes.

Section 382. This section provides a method of distribution. The comptroller is required to maintain on hand at all times a fund of $250,000, out of which refunds to taxpayers are to be made. Of the remainder, 50% is to be paid to the state treasurer to the credit of the general fund. The remainder is to be distributed to the counties proportionally to the assessed valuation of real estate. A further intra-county distribution is to be made by the county treasurer on the same basis.

The defect in this plan of distribution is that it will fail of beneficial effect upon the local assessment of personal property. The Massachusetts plan was framed with the deliberate intention of producing a better assessment of the personal property which will remain subject to local taxation. Tangible personality remains taxable in New York, and its proper assessment has long been a problem there. The exclusion of this class of taxable property in determining the basis of distribution leaves the local assessor with no greater incentive for improvement than he had before.

Sections 383-385. Some final administrative provisions are added; secrecy is imposed upon all officials with regard to the contents of returns, and contracts to assume the tax are made vaid. The sum of $300,000 is appropriated for the administration of the law.

This amount for administrative cost may appear large, but it will be a small proportion of the tax assessed. It has been the general experience thatt the administration of an income tax costs a large amount, absolutely, but that the relative cost is small. Successful administration here will depend upon sufficient liberality in the appropriation to permit the employment of capable administrators.

No assessment of income has been made under the personal income tax law in New York and the yield of the tax is therefore conjectural. Various estimates were made for the legislative committee, on the basis of the returns to the federal revenue department, and other statistics of population and income. Professor Seligman estimated that a rate of 1% would yield $20,000,000 to $25,000,000 for the state, of which almost 9/10 would come from New York City. A more conservative estimate prepared for the special tax committee of the Advisory Council of Real Estate Interests placed the return at $12,000,000-$13,000,000 at a 1% rate. The uncertainty of estimates is increased just now by the difficulty of projecting post-war incomes from the inflated figures of the war period. It seems reasonable to expect, in view of the experience of both Wisconsin and Massachusetts, that Professor Seligman's estimate will not prove to be seriously in error, and that the return may be at least $20,000,000 with a rate of 1%.

The New York Franchise Tax on Business Corporations.

Additional copies of this act are not available, and the principal features of the law will be summarized.

The tax is imposed for the privilege of doing business within the state, and is levied upon the entire net income, which is declared to be presumably the same as the entire net income upon which a tax is paid to the United States under the federal revenue act. A report must be made to the state tax commission within 30 days after making the federal report for the fiscal year ending in each calendar year, showing the amount of net income returned and a mass of other data specified by the act. The state tax commission is authorized to correct this return, and all changes made or allowed by the federal officials must be reported to the state. The rate is 4½%, advanced from 3% in the original law. A minimum tax of not less than $10 or not less than one mill on each dollar of capital stock apportioned to the state was added in 1919, to cover the cases in which no net income was shown in the report. The apportionment of capital stock was to be on the basis of the real estate and tangible personalty within and without the state. If the corporation had stock without par value the paid-in capital was to be allocated on the same basis.

A considerable list of exempt classes occurs, including corporations wholly engaged in the purchase, sale and holding of real estate for themselves, securities holding companies, the public service corporations, savings banks, title guarantee, insurance and surety companies. In each of these cases the existing system of taxation was considered to impose a sufficient burden to justify the exemption from the operation of this act. The principal classes of companies subject to the act are the miscellaneous manufacturing, mercantile and other business corporations.

The administration of the law is in the hands of the state tax commission, and all of the testimony which came to the writer, from various sources, was to the effect that it was very satisfactorily handled. Adequate powers are given the commission to secure returns, to revise and correct them, and to perform the various duties incident to the proper administration of the law. The commission certifies the amount of tax due to the state comptroller, together with the amounts due various localities under the distribution plan, and collection and distribution are carried on by the latter.

The provisions relating to the apportionment of income to the state and distribution of proceeds to the localities are quite complicated, and undoubtedly increase the burden of administration. They will be given in the language of the statute. The apportionment section is in part as follows:

"The proportion of the entire net income of the corporation upon which the tax under this article shall be based, shall be such proportion of the entire net income as the aggregate of

1) The average monthly value of the real property and tangible personal property within the state.
2) The average monthly value of bills and accounts receivable for (a) personal property sold by the corporation from merchandise manufactured by it within this state; (b) personal property sold by the corporation from merchandise owned by it and located within the state at the time of acceptance of the order but not manufactured by it within this state; and (c) services performed within this state, excluding bills and accounts receivable arising from sales made from a stock of merchandise or other property located at a place of business maintained by the reporting corporation within this state.
3) The proportion of the average value of the stocks of other corporations owned by the corporation, allocated to the state as provided by this section, but not exceeding 10% of the real and tangible property segregated to this state under this article,

bears to the aggregate of

4) The average monthly value of all the real estate and personal property of the corporation, wherever located.
5) The average total value of bills and accounts receivable, for (a) personal property sold by the corporation from merchandise manufactured by it within and without this state; (b) personal property sold by the corporation from merchandise owned by it at the time of the acceptance of the order but not manufactured by it; and (c) services performed both within and without this state, based on orders received at offices maintained by the corporation, excluding bills and accounts receivable on orders filled from a stock of merchandise or other property maintained by the corporation.
6) The average total value of stocks of other corporations owned by the corporation, but not exceeding 10% of the aggregate real estate and tangible personal property set up in this report.

Real property and tangible personal property shall be taken at its actual value where located. The value of share stock of another corporation owned by a corporation liable hereunder shall for purposes of allocation of assets be apportioned in and out of the state in accordance with the value of the physical property in and out of the state representing such share stock.

These elaborate provisions are almost beyond the comprehension of the lay mind, and it would be impossible to judge of their effects without intimate knowledge of the character of the business operations to be affected by them. They are perhaps unnecessarily complicated, an das the complexity of the law grows, so multiply also the opportunity for the adjustment of returns to a more favorable basis. The tax commission reports that the provision is difficult of administration, and that it is not entirely equitable. It is certainly too elaborate and too much of an attempt to deal with various local factors, to be of great assistance as a model for Ohio.

The disposition of the revenue must be taken in connection with the withdrawal of all corporate personal property from local taxation, which the act provides. In this respect it goes farther than the personal income tax law, which exempts only intangibles, but as an offset the corporations pay a higher rate on net incomes. The distribution was planned so as to return for local use about as much revenue as the localities had formerly been receiving from the taxation of corporations. Accordingly, two-thirds of the proceeds are to be paid into the state treasury for general uses, and one-third is distributed locally, on the basis of the average monthly value of the corporate tangible personal property in the various cities and towns. If any part of this property is located in a village, the village and the town share in the proportion that the taxes raised by the village for village and town purposes bears to the total of such taxes raised by town and village for town and village purposes. The state tax commission made investigations which served as the basis for this very complicated plan. In view of the highly unsatisfactory character of the local assessment of corporate tangibles under the old system the degree of accuracy with which the results of this plan will co-incide with the earlier result is highly uncertain. Such a plan was designed to meet certain purely local conditions and is of purely local interest.

The Wisconsin Income Tax Law.

The Wisconsin income tax is a general or comprehensive tax in one sense, in that it is levied upon all incomes, individual and corporate; but it is a limited tax in another sense, in that it applies only to incomes derived from sources within the state. Geographical location of the source of income rather than the personal or political obligation of the taxpayer determines liability to the tax.

Income is defined to include all rents, dividends, interest, wages, profits derived from the sale of real estate or other capital assets, royalties from mines or franchises and all other gains, profits and incomes of whatever sort. The original law included the estimated rental of dwellings when occupied by the owner, but this proved so fruitful of administrative difficulties and so barren of results that it was eliminated in 1917. The meaning of dividends was further limited in this year also, to a distribution of earnings accrued since January 1, 1911, and paid to the stockholder, whether in cash or in stock. In calculating the gains from the sale of capital assets acquired before January 1, 1911, the fair market value as of that date was fixed as the basis. Residents were made taxable only on incomes earned or derived from property located within the state, and non-residents were to be taxed similarly on in-

comes arising within the state. A system of apportionment for interstate incomes was provided. The geographical rule was modified by the familiar legal doctrine of situs. The act provided that the income of real estate, farm, mine or quarry, should be taxable at the situs of the producing property. The income from intangibles, specifically land contracts, mortgages, stocks, bonds and securities, is to follow the domicile of the owner for taxation purposes. Income received from non-residents from these species of property is not taxable, even though the property which they represent and from which they derive their value, is located in Wisconsin. For interstate concerns a statutory rule of apportionment of income is provided, or a separate accounting may be made, with the approval of the commission.

This view of the taxability of incomes is not in accord with the best modern thought, as represented by the plan for a model system of state and local taxation. It conflicts with the New York and other laws, and if retained, will undoubtedly lead to an increasing measure of double taxation on non-residents. The tax commission is urging that the law be harmonied with other laws by making domicile or residence the test of taxability.[1]

The method of apportioning the incomes of firms or individuals doing business within and without the state is apparently designed primarily for manufacturing corporations, and it is primarily this class of concerns which would be involved. This method is as follows:

> "In determining the proportion of capital stock employed in the state, the same shall be computed by taking the gross business in dollars of the corporation in the state and add(ing) to same to the full value in dollars of the property of the corporation located in the state. The sum so obtained shall be the numerator of a fraction of which the denominator shall consist of the total gross business in dollars of the corporation, both within and without the state, added to the full value in dollars of the entire property of the corporation, both within and without the state. The fraction so obtained shall represent the proportion of the capital stock represented within the state."

Much difficulty has been met under this rule in securing a fair apportionment to Wisconsin of the income of the large creameries and canneries which buy their raw materials in Wisconsin and sell most of the product in other states. The Heintz Company is now engaged in contesting the validity of the commission's determination.

Since the law applies both to individuals and to corporations it is necessary to provide separate provisions for deductions from gross income, exemptions and rates. The act in reality combines in one law a

[1] Wisconsin Tax Commission, *Report*, 1918, pp. 6-8.

system of taxation similar to that of New York. That is, it is a combination of tax on personal incomes and a business tax on corporations, using net income as the basis in the latter case. Viewed in this light, the Wisconsin plan foreshadowed the general outline of the Model System, although with some features not acceptable to the latter.

In determining the net income of individuals the following deductions are allowed, 1) wages and salaries paid to employes who have assisted in producing the income. In order to secure this deduction employers must supply a list of all persons to whom $700 or more is paid annually. Other allowances are, 2) the ordinary and necessary expenses; 3) losses not covered by insurance; 4) dividends on stocks of corporations the income of which is taxable under the act; (with provision for partial deduction in case only a part of the corporate income is taxable); 5) interest on all debts, providing the debtor reports amounts paid, form of the debt and names of creditors; 6) pensions; 7) all taxes paid on the property or business from which the income is derived; 8) inheritances; 9) insurance received, except in the case of endowment paid during life the excess of payment over amounts paid for the insurance is taxable as a profit; 10) and dividends paid on stocks of banks taxable by Wisconsin.

The interest exemption is clearly too broad, and the commission favors a restriction to the interest paid on debts incurred in the operations from which the taxable income is derived. The language of the act does not permit a deduction of federal income taxes, which were not in existence when the law was passed. The commission recognizes two sides to this question but is inclined to favor the deduction. The attempt to determine and tax the so-called "profit" element in endowment or other term insurance is peculiar to the Wisconsin statute. The difficulty of accurate and equitable determination of this element makes this an objectionable feature.

The exemptions allowed to individuals are $800 for single persons, $1,200 for husband and wife, $200 for each child under 18, and $200 for each additional person actually supported by and entirely dependent upon the taxpayer for snupport. These exemptions allowed to individuals stand as originally enacted and are reminiscent of the figures commonly advanced about 1911 as representing the minimum of decent subsistence. They are unquestionably too low for the present era of inflated prices. These exemptions are specifically denied to non-residents on their income from sources within the state, and to corporations.

The rates on personal incomes are graduated according to the following elaborate schedule:

Class	Taxable Income	Rate	Class	Taxable Income	Rate
1st	$1,000	1 %	8th	$1,000	3½%
2nd	1,000	1½%	9th	1,000	4 %
3rd	1,000	1½%	10th	1,000	4½%
4th	1,000	1¾%	11th	1,000	5 %
5th	1,000	2 %	12th	1,000	5½%
6th	1,000	2½%	13th	1,000	6 %
7th	1,000	3 %	And on all over		6 %

The deductions allowed to corporations include wages and salaries paid, provided a list of employes receiving $700 and over be filed as in the case of individuals; losses not covered by insurance; taxes imposed by any state upon the source from which the income taxed by this act is derived; ordinary expenses, with reasonable allowance for use, wear and tear, and the depletion of mines; interest paid in the operation of the business from which the income is derived, provided a list of payments be filed as in the case of individuals; dividends from corporations, the income of which is taxed, with a proviso for the apportionment of this deduction according as only a part of the said income is taxable; bank dividends; and co-operative associations may deduct amounts distributed to patrons in proportion to their patronage.

The corporations that are taxable are allowed no exemptions. All public funds and the income of the following classes of corporations are entirely exempted — banks, religious, educational, scientific and benevolent institutions, and the public utilities.

The law originally contained a very complicated scheme of rates on corporation incomes, the actual rate being governed by the relation between net income and the assessed valuation of the property in Wisconsin. The thought was to stimulate the local assessment of corporate property and thus to provide a revenue resource in the event that the income tax receipts should prove disappointing. The plan proved impracticable and was replaced in 1913 by a straightforward graduated system, the schedule running as follows:

Class	Taxable Income	Rate	Class	Taxable Income	Rate
1st	$1,000	2 %	5th	$1,000	4 %
2nd	1,000	2½%	6th	1,000	5 %
3rd	1,000	3 %	7th and all above		6 %
4th	1,000	3½%			

The administrative provisions of the act are in many respects the most important contribution which Wisconsin has made to the whole problem of state income taxation. These, more than any other feature,

distinguish the Wisconsin act from the long list of failures which preceded it. They have served as the model for the administrative portions of the Massachusetts and New York laws, and it is hardly too much to say that the degree of success or failure which will attend such a law in any other state will depend upon the extent to which the administrative principles contained in this act are observed.

The tax commission is in general charge of the income tax. It is required to divide the state into assessment districts and to appoint an income tax assessor for each district. These assessors are in fact chosen under civil service rules, as are all deputies and assistants who may prove necessary. Their salaries are fixed by the commission, but are not to exceed five cents on each $1000 of assessed valuation as equalized by the tax commission in the previous year. The county board of each county in which an office is established is required to provide suitable quarters.

The assessors of incomes assess all individuals upon their incomes and for each unanswered question the assessor or his deputy is subject to a penalty of $5.00 unless satisfactory cause can be shown to the commission. They are required to assist the county clerk in the computation of the taxes due from individuals, and in addition to their duties in connection with the assessment of incomes, they are required to act as supervisors of assessment. In this capacity they have general charge of the local assessment of property. They work with the local assessors, inspect and check up their work, search out omitted property, and exercise general supervision over the assessment process.

Corporations make the return of their incomes to the state tax commission and are assessed by that body. The tax as computed is certified to the county clerks of the counties in which the offices of the corporations are located.

Individuals who are aggrieved by the assessment of their income may appeal to a county board consisting of three resident taxpayers in each county, appointed by the state tax commission. These boards may review and correct the assessment, and a further appeal may be taken to the tax commission, sitting as a board of appeals on their own original assessments. Corporations may appeal directly to the commission.

The method of collection is unique, but it is of considerable interest to Ohio because of the constitutional provision for distribution in this state. All income taxes, on both personal and corporate incomes, are certified to the local treasurers and are extended upon the local tax rolls to a special column, and are collected at the same time and in the same manner as are all other taxes. Each taxpayer is required to give his post office address, and if he has income which would have a situs for

taxation in another district, is required to indicate its location. Business concerns doing business in more than assessment district are to use the same rule of apportionment between districts as is used by interstate concerns. Of the collections the local treasurers certify 10% to the state, 20% to the county, and 70% to the town, village or city in which the tax was assessed, levied and collected. When the last-named share exceeds 2% of the equalized valuation of property, the excess shall be paid to the county to be distributed to the towns, cities and villages according to school population. Cities of the first class were required to begin the creation of firemen's pension funds out of the first receipts, setting aside each year sufficient to maintain the fund at $175,000. All expenses of administration are paid by the state from the 10% quota alloted to it.

There remains one other feature which may be of especial interest to Ohio. This is the offset of personal property. It was introduced in 1911 as a compromise, a bridge by which the state might pass from property to income taxation. It was necessary to safeguard the local revenues while the income tax was in the experimental stage; there was also a certain inclination to avoid double taxation of personal property, especially of intangibles, and the personal property offset was devised as a comromise. In effect, it permits any taxpayer to present the tax receipts for personal property taxes, except for the tax on stocks in banks and banking institutions, and secure a credit toward the payment of his income tax. This means simply that the taxpayer will pay the larger of the two taxes, an arrangement which exists in this precise form in one of the Canadian provinces.

The commission now recommends the removal of this provision.[1] It points out the absurdity of an elaborate mechanism for the assessment of incomes, only to have this result nullified by the presentation of personal property tax receipts. Further, the state should either tax personal property or exempt it. The present arrangement is an unfair discrimination against the owner of real estate, since it ostensibly taxes personalty but in reality does not do so, and without granting specific exemption. Moreover, the advantage to be obtained by a large assessment of personal property at low local rates has led to much fraud in the classification of property. Many concerns have sought to pad their personalty assessments by urging assessors to list fixed machinery, buildings on leased land, and other forms of property usually considered to be real estate as personal property in order to increase the amount of offset against income tax. The best solution appears to be that proposed by the National Tax Association committee on a model tax system-tax

[1] Wisconsin Tax Commission, *Report*, 1918, pp. 6-8.

tangibles at a low fixed rate, at their situs, on account of the burdens of local governments and exempt intangibles entirely.

The whole treatment of personal property by the Wisconsin act will be of some interest to us in Ohio, as will be also the views of the Wisconsin tax commission on this important subject. The income tax exempted outright certain classes of personal property, the proper assessment of which had become almost impossible, even with improved methods of administration. These exempted classes were—moneys and credits of all kinds, including stocks and bonds; household goods and furnishings; farm, orchard and garden machinery, implements and tools; and some other minor items. The principal reason for this action was the intention of the legislature definitely to substitute income for property taxation. Whether this intention were wise will be discussed presently; but it is true that as affairs stood in Wisconsin the attempt to tax the more elusive forms of personal propery at high local rates had brought extra-legal exemption. For example, moneys and credits were assessed locally in 1910 at $22,349,000, and this the commission found to be $14.81% of the true value of such property. For the other forms of personal property which were exempted the commission found the assessment of 1910 to be at 17.2% of true value. At the average state rate for 1910 the exempted classes would have paid $959,000 in taxes. The total assessment of income tax in 1912 was $3,482,000, of which $1,609,000 was paid by the presentation of personal property tax receipts.

The general advantage which has been derived from the use of the income tax may be shown by the following table which the state tax commission has prepared:[1]

EXCESS OF INCOME TAX OVER THE PERSONAL PROPERTY TAX USED AS OFFSET AND THE ESTIMATED AMOUNT LOST BY THE EXEMPTION OF CERTAIN PERSONAL PROPERTY.

Year	*Income Tax Assessed*	*Personal Tax Used as Offset*	*Est. Tax on Exemptions*	*Delinquent Income Tax*
1912	$3,482,000	$1,609,000	$700,000	$241,000
1913	4,084,000	1,805,000	700,000	251,000
1914	4,145,000	1,987,000	700,000	251,000
1915	3,837,000	1,825,000	700,000	105,000
Totals	$15,549,000	$7,228,000	$2,800,000	$753,000

Total income tax assessed	$15,549,000	Personal tax offset	$7,228,000
Total personal and delinquent	10,782,000	Est. tax on exemptions	2,800,000
		Deliquent	753,000
Total excess	$4,767,000	Total	$10,782,000
Average excess	1,191,000		

[1] Wisconsin Tax Commission, *Report*, 1916, p. 68.

In commenting upon this table the commission states that a large part of the amount shown here as delinquent tax was really collected later by the county treasurers, and that in consequence the excess of income tax over offsets should be greater than is actually shown. The published statistics for 1918 are very meager, but some of these items may be extended:

	1916	*1917*
Total tax assessed	$5,328,000	$9,402,000
Offsets	2,211,000	3,307,000
Excess	$3,118,000	$6,175,000

These figures are indicative of the extent to which war inflation has overthrown all established price and money standards. The total tax assessed for 1918 was $11,830,000. On the other hand the personal property tax offset reveals no such elasticity, even with advancing prices, and the margin of excess has widened greatly. These figures suggest also the remarkable flexibilty which is characteristic of direct taxation in general and of the income tax in particular.

The tax commission has always contended that the income tax was very inexpensive, relative to the yield. It happens that there are several bases on which to measure or compare the cost, and the results are affected by the selection. The cost of the income tax division relative to tax assessed and cash collections are shown herewith:

Year	*% Net Cost to Tax Assessed*	*% Net Cost to Cash Collections*
1912-13	1.31	2.77
1913-14	1.11	2.33
1914-15	1.06	2.20
1915-16	1.30	2.62

The net cost is obtained by subtracting, in each year, the cost of the former supervisors of assessment from the outlay for the income tax division. These officials had cost the state $54,000 in 1910. The assessors of incomes replaced them and are now performing their duties; it is not improper to divide the total expense in this way, but it is hardly a fair guide for another state, for the income tax would cost practically as much in Wisconsin today if there had never been supervisors of assessment. The consensus of opinion in the East was that such a tax would cost about 2% of the tax assessed.

The Wisconsin commission has ordinarily been very lavish in the compilation and publication of statistics. From the wealth of material the

following table is selected, as the one best suited to reveal the general character and distribution of the income tax. It shows the income assessed, the tax assessed and the per capita tax, for groups of counties in 1914 and 1916:

	Year.	*The State.*	*Group I.*	*Group II.*	*Group III.*
Income Tax	1914	100%	47.12%	34.51%	18.37%
	1916	100	44.01	36.03	19.95
Income assessed	1914	100%	42.55%	26.78%	30.67%
	1916	100	41.42	35.45	23.13
Per capita tax	1914	$1.77	$4.50	$1.84	$0.68
	1916	2.29	5.43	2.48	.95
Population		100%	18.36%	33.21%	48.23%

Group I consists of one county, Milwaukee. With only 18.56% of the population, it was assessed for nearly half of the total tax in 1914. Group II included 16 counties, containing cities of the second and third classes, and Group III comprised the remaining 54 counties, the essentially rural portion of the state. During this period Milwaukee county lost slightly in the relative amount of income assessed, and somewhat more heavily in the amount of tax; but it remain true, as the commission has pointed out, that the modern income tax is primarily and characteristically an usban tax. In 1914 the per capita levy in Milwaukee City was $4.50 but in group III it was only .68. The commission sums up its discussion of this fact fact by saying that "a smaller portion of the people pay, and they pay lower average rates on lower average incomes, in the country than in the city." This recalls Professor Seligman's statement regarding the federal income tax on persons of 1918 that about 37% came from New York state, and 87% of this quota came from New York City. These results are an inevitable consequence of the enormous concentration of wealth in the present age. They constitute a formidable argument against the return of the whole of the tax, or even of any large percentage of it, to the district of source. They would appear also to refute the idea that an income tax alone, with complete exemption of personal property, is an ideal revenue system. The cities would find such an arrangement satisfactory enough perhaps, but the rural sections would find it more difficult to provide adequate revenues. It will be to the interest of the latter to retain the property tax on tangibles, with proper care in adjusting the rates through classification. Since no state is wholly either urban or rural the practical working ideal becomes a suitable combination of income and classified property taxes.

The relatively greater revenue needs of the large municipalities are recognized in Ohio in the constitutional provision which requires 50% of the collection to be returned to the source. But the social obligations of wealth must be recognized as well as the state's obligation toward certain state-wide problems. And a considerable portion if not all of the remainder sould be distributed or used in such a manner as will affect a joint discharge of these obligations.

This overlong report may be concluded with some general observations and conclusions with regard to the income tax and its applicability to Ohio.

1) The income tax is fiscally adequate. Under proper conditions it will produce probably more revenue for the state as a whole than it is possible to obtain from intangibles under the general property tax. We may therefore confidently expect to add to the state and local revenues by introducing such a tax. The necessary condition is the adoption of such a system of property taxation as will permit the exemption of intangibles and the use of a properly graduated tax on incomes.

2) We know, too, from a survey of the experience elsewhere, what the general form of such a tax should be. The definition of gross income and the proper deductions therefrom, have been quite satisfactorily developed by the federal practice as well as by some of the states. We are quite clear also as to the necessary administrative organization which must be adopted. The two most difficult points in the framing of such a measure will be a satisfactory plan for the proper apportionment of income to the state and the proper distribution of such portion as the constitution leaves to legislative discretion. In Massachusetts and New York the educational situation was apparently in greatest need of correction, and such is doubtless the case in Ohio. In any event it is probably not wise to return more than the constitutional minimum percentage to the district of source unless the local needs compel such disposition.

3) The experience of other states makes it clear, too, that the personal income tax cannot stand alone, but must be correlated with the other parts of the tax system. The final word on this very important subject is the report on the Model System, which proposes the combination of personal income tax, business tax, and local tax on tangibles. These proposals are clearly influencing the trend of legislation in several states, and in some cases it is possible to note appreciate progress in conforming at least to the outlines of the plan. In Ohio especial attention should be given to the possibility of a business tax, for our method of taxing ordinary business corporations is notoriously inadequate. I am assuming the exemption of intangibles, though I realize that this is a contingent event. It must be made possible, or the success

of our income tax is very uncertain. If, in addition, we shou'd introduce the rule of taxing tangibles *in situ*, we could, at a single stroke relieve the municipalities and free a larger portion of the proceeds of the income tax for important general uses, such as education.

We must realize, too, that we are now riding the wave of income tax popularity. A few years ago separation of the sources of revenue was our revenue panacea. Today, there is some danger of placing too great reliance upon the income tax as the chief agent of our fiscal salvation. Such expectations are doomed, and this failure will react unfavorably against the income tax in its proper place. It is more true today than ever that no one system will prove a cure-all. We must diversify the revenue system, combine property and income taxation, and strive toward a genuine and effective co-ordination of the widely diverse and different sources of revenue. On this point some remarks by Professor Bullock are worthy of consideration.[1]

> "The foregoing discussion leads to the conclusion that neither the income tax nor the classified property tax is always and at every point to be preferred to the other; that these taxes are, to a large extent, merely different methods of doing the same thing; and that they ought to be regarded as imposts, not mutually exclusive, but capable of being combined in a logical and practicable scheme of taxation. In choosing between them at any point, we need to weigh all the circumstances of the case and then determine on which side the balance of advantage lies. No general pronunciamento in favor of either tax will solve any practical problem of taxation.
>
> "This conclusion, however, needs one qualification. The two taxes are not equally well adapted to the needs of every state. The income tax works much better in manufacturing and commercial communities than in rural, on account of the difficulty of computing farmers' incomes and because the high exemptions usually inseparable from an income tax, permit the average farmer to slip through the net and diminish greatly the revenue secured. It also involves a greater departure from established ideas and practices; and probably requires, at least when first introduced, more skillful administration. A state that is almost wholly devoted to agriculture would, therefore, do well to adopt the classified property tax; and one that is not prepared to centralize the machinery of assessment, as Wisconsin and Massachusetts have done, certainly will achieve no great success with the income tax. The last statement, however, is almost as true of the classified property tax, as Iowa's experience shows; so that we need alwyas to insist that a considerable degree of centralization is a fundamental requisite in any plan of tax reform."

4) The importance of the administrative measures cannot be too strongly emphasized. As Professor Bullock says, they are indispensable to any plan of tax reform. A partizan truce should be declared on this

[1] Proceedings of the National Tax Association, 1916.

subject and such standards of selection, tenure of office and compensation for the administrative staff should be set up as will command the respect and the support of all classes and all factions. The inauguration of an income tax is a gigantic task under the best conditions. The burden should not be unduly increased.

5) It is especially important and valuable that the income tax law should come into effect with the people favorably disposed toward it. This has been appreciated elsewhere, and elaborate plans have been carried through in order to "sell" the idea to the public. To this end it is suggested that the early draft of the bill be given extensive publicity in every possible way, and especially by conducting a series of hearings at different points in the state. Hearings at Columbus are not enough — only the specially interested people will attend. The bill must be taken to the people. This educational campaign should be continued by those chosen to administer the law after it is passed, but there will be less friction and criticism if the objections are met before the final enactment.

6) Finally, we must recognize that the problems of taxation, while serious and important, are not unrelated to the other phases of public finance, such as expenditures, debts, and financial control. This committee may not consider that it now has jurisdiction over such questions; but unless they are adequately dealt with, the work of this committee may result simply in increasing the taxes without reducing the burden. The need may be stated succinctly as one of a more adequate budget system for the state and the local units. Such problems as control of expenditures, tax limits, and debt limits can only be properly dealt with under a budget system. The Smith law may be regarded as an earnest attempt to limit expenditures. But it imposes external, rigid, mechanically determined limits, and as such is essentially a failure; for while it has nominally kept rates down it has not restricted expenditures and it cannot do so, for it provides no adequate control over municipal deficit financiering.

Such control over tax levies, rates and expenditures should be vital, not mechanical; flexible, not rigid; carefully calculated by an authority on which responsibility can be fixed, and not imposed from the outside in utter disregard of the whole financial system. Taxation has been by far the most popular branch of public finance and in recent years most attention has been given to it; today these other phases of the subject are of even greater importance, and attention to them will afford even richer results for the public good.

83d GENERAL ASSEMBLY, REGULAR SESSION, 1919. S. B. No. 191

THE SPECIAL JOINT COMMITTEE ON TAXATION.

A BILL

Providing for the levy and collection of a tax on the operation of motor vehicles on the public roads and highways of this state and for such purpose amending sections 6290, 6291, 6292, 6293, 6294, 6294-1, 6295, 6298, 6301, 6309, 12618, 12620, 12621 of the General Code, and enacting supplemental sections 6309-1, 6309-2, 6309-3, 12618-1, 12618-2 and 12618-3 of the General Code.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. Sections 6290, 6291, 6292, 6293, 6294, 6294-1, 6295, 6301, 6309, 12618, 12620, and 12621 of the General Code are hereby amended and supplementary sections 6309-1, 6309-2, 6309-3, 12618-1, 12618-2 and 12618-3 of the General Code are hereby enacted as follows:

Sec. 6290. * * * As used in this chapter and in the penal laws, except as otherwise provided. * * *.

(1) *"Motor vehicle"* means any vehicle propelled *or drawn* by power other than muscular power and *not operated exclusively upon rails or tracks,* except road rollers, traction engines, *tractors, trailers designed to be drawn by animal power and used principallyf or agricultural purposes,* * * * public ambulances, * * * *and* vehicles * * * belonging to any police department, municipal fire department, volunteer fire company ors alvage company, organized under the laws of Ohio, or used by such * * * department * * * or * * * company in the discharge of its functions. * * *.

(2) *"Tractor" and "traction engine" mean any self-propelled vehicle designed or used for drawing other vehicles or wheeled machinery, but having no provision for carrying loads independently of such other vehicles.*

(3) *"Passenger car" means any motor vehicle designed and used for carrying not more than seven persons.*

(4) *"Commercial car" means any motor vehicle having motive power, designed and used for carrying merchandise or freight, or for carrying more than seven persons.*

(5) *"Owner" includes any person, firm or corporation having title to a motor vehicle or the exclusive right to the use thereof for a period of greater than thirty days, other than a manufacturer or dealer.*

(6) *"Manufacturer" and "dealer" include all persons, firms and corporations engaged in the business of manufacturing, selling or leasing motor vehicles.*

(7) *"State" includes the territories and federal districts of the United States, and the provinces of the Dominion of Canada.*

(8) *"Public roads and highways" include all public thoroughfares for vehicles.*

Sec. 6291. *An annual license tax is hereby levied upon the operation of motor vehicles on the public roads or highways of this state, for the purpose of enforcing and paying the expense of administering the law relative to the registration and operation of such vehicles and of maintaining and requiring improved roads and highways and streets. Such tax shall be at the rates specified in this chapter and shall be paid to and collected by the secretary of state at the time of making application for registration as herein provided.*

Sec. 6292. *Each owner of a motor vehicle shall pay or cause to be paid taxes as follows:*

For each motor bicycle or motorcycle, two dollars ad fifty cents; and for each side car, one dollar and fifty cents.

For each passenger car having twenty-five horse-power or less, eight dollars; for each such car having more than twenty-five and not more than thirty-five horse-power, twelve dollars; for each such car having more than thirty-five horse-power, twenty dollars.

For each commercial car, the same tax based on horse-power, and in the same classifications as are herein provided for passenger cars, and in addition thereto twenty cents for each one hundred pounds gross weight of vehicle and load, or fractional part thereof.

For each trailer, the same tax based on gross weight of vehicle and load, herein provided for commercial cars.

The minimum tax for any vehicle having motive power other than a motor bicycle or a motorcycle shall be five dollars; and for each trailer, two dollars and fifty cents.

Each manufacturer or dealer shall pay or cause to be paid a tax of twenty dollars for each place of business in this state.

Sec. 6293. *In determining the gross weight of vehicle and load, in the case of commercial cars designed and used for carrying passengers, the weight of passengers shall be computed at one hundred and twenty-five pounds for each passenger, according to the number of seats for adults actually provided, and such weight so computed added to the weight of the vehicle fully equipped. In determining the gross weight of vehicle and load in the case of motor trucks and trailers the manufacturer's rated carrying capacity shall be added to the weight of the vehicle fully equipped.*

The horse power of all vehicles propelled by internal combustion engines shall be computed upon the following formula: Square the diameter of the cylinder measured in inches, multiply by the number of cylinders and divide by two and one-half. For all motor vehicles propelled by steam engines the rating of the horse power thereof shall be based on the system of rating adopted by the United States government.

For all motor vehicles propelled by electricity the rating of the horse power thereof shall be the normal horse-power of the electric motor therein, to be ascertained by the secretary of state.

Sec. 6294. Every owner of a motor vehicle which shall be operated or driven upon the public roads or highways of this state shall * * * before the first day of January of each year, except as herein otherwise expressly provided, cause to be filed, by mail or otherwise, in the office of the *proper deputy registrar of motor vehicles* a written application for registration for the following year, beginning the first day of January of such year, on a blank to be furnished by the secretary of state for that purpose, containing *the following information:*

(1) A brief description of the motor vehicle to be registered, including the name of the manufacturer, the factory number of such vehicle * * *, the amount of motive power, *if any,* in figures of horse power, *according to the formula prescribed in this chapter, and, in case of commercial cars the gross weight of vehicle and load, computed according to the formula prescribed in this chapter.*

(2) The name and address of the owner, * * *.

(3) *The district of registration, which shall be determined as follows:*

(a) *In case the motor vehicle to be registered is used for hire or principally in connection with any established business or branch business, conducted at a particular place, the district of registration shall be the municipal corporation in which such place is located; and if not located in any municipal corporation, the county in which such place is located.*

(b) *In case such vehicle is not so used, the district of registration shall be the municipal corporation or county in which the owner resides at the time of making application* * * *.

Sec. 6294-1. Upon the transfer of ownership of *a* motor vehicle its registration shall expire, and it shall be the duty of the original owner to immediately notify the secretary of state of the name and address of the new owner and return to the secretary of state the registration certificate for cancellation. The original owner shall also remove number plates from a motor vehicle upon transfer of ownership of such vehicle. Should the original owner make application for the registration of another motor vehicle within thirty days after such cancellation, he may file a new application accompanied by a fee of one dollar, *and pay the tax thereon, less the amount of the tax that would be collected on account of the vehicle transferred, on the date of such application* * * *.

Sec. 6295. Every owner of a motor vehicle * * * before operating or driving such motor vehicle upon the public roads or highways of this state, or permitting the same to be driven, shall file a like application. On all applications required by this section the taxes payable shall be as follows:

(1) *If said application be made prior to April first, the normal tax.*

(2) *If made on or after April first and prior to July first, three-fourths of the normal tax.*

(3) *If made on or after July first and prior to October first, one-half of the normal tax;* and

(4) *If made on or after October first one-fourth of the normal tax.*

Publicly owned and operated motor vehicles shall be registered as provided in this chapter, without charge of any kind; but this provision shall not be construed as exempting the operation of such vehicles from any other provision of this chapter and the penal laws relating thereto. The secretary of state shall accept any application to register a motor vehicle owned by the Federal Government which may be made by any officer, department or agent of such government.

Sec. 6298. Upon the filing of such application * * * and the payment of the *tax imposed by this chapter*, the secretary of state shall assign to such motor vehicle a distinctive number, and, without expense to the applicant, isue and deliver to the owner in such manner as the secretary of state may select a certificate of registration, in such form as the secretary of state shall prescribe, and two number plates, duplicates of each other, at the post or express office within the state of Ohio named in said application.

Sec. 6301. A manufacturer *of* or dealer in motor vehicles, shall make application, in like manner, as hereinbefore provided, for each

gasoline, steam, electric or other make of motor vehicles, so manufactured or dealt in * * *, to be determined by the motive power of such vehicles; *excepting that for the purpose of such application the district of registration shall be stated for each place in this state at which the business of manufacturing or dealing in motor vehicles or any branch thereof is carried on, and the application shall show the make, or makes, so manufactured or dealt in at each such place. Upon the filing of such application, and the payment of the tax imposed by this chapter* * * the secretary of state shall assign to each make of motor vehicle therein described a distinctive number which must be carried and displayed by each motor vehicle of such make in like manner as provided in this chapter while it is operated on the public highway until it is sold or let for hire. Such manufacturer or dealer, so registering a make of motor vehicle, may procure certified copies of such registration certificate upon the payment of a fee of five dollars. With each of such certified copies the secretary of state shall furnish two placards with the same numbering provided in the orignal registration certificates, *and may add thereto such special designation as may be necessary to distinguish one set thereof from another. Nothing in this section nor in section six thousand two hundred and ninety-two of the General Code shall be so construed as to exempt any manufacturer or dealer from registration or taxation in respect of any other motor vehicle of which he is the owner for any purpose other than sale, lease or other like disposition.*

Sec. 6309. *The county auditor of each county in this state shall be exofficio a deputy registrar of motor vehicles, and in such capacity shall act for the secretary of state in the discharge of the duties inmposed upon such secretary by this chapter in the following particulars, and no other:*

(1) *The receipt of applications for registration and for certified copies of registration certificates. All applications shall be made to the deputy registrar for the county in which the applicant resides, unless the applicant is a corporation or a non-resident of this state, in which event application may be made in any county in which the applicant maintains a place at which the business is conducted, in connection with which the motor vehicles, or makes of motor vehicles, requiring registration are used. All applications shall be forwarded to the secretary of state for registration.*

(2) *The collection of taxes payable on applications made to him, and fees payable on like applications, under the provisions of section 6294-1 of the General Code. From the proceeds of collections made by him such deputy shall be entitled to retain the fees provided herein which shall be paid into the county treasury to the*

credit of the county auditor's fee fund. The remainder of such registration and duplicate registration fees he shall remit weekly to the secretary of state. From the remainder of such taxes collected he shall retain the portion of the revenue due to any district of registration located in whole or in part in his county and immediately certify the same into the county treasury to the credit of the undivided tax fund therein in the manner prescribed by law, and the balance he shall remit weekly to the secretary of state. The secretary of state shall require of him weekly statements accompanying such remittances, and setting forth in such form as such secretary may prescribe, the distribution of collections made by such deputy and the facts necessary to enable such secretary to make any further distribution of the sums remitted which may be required by this chapter.

(3) *The distribution of certificates and number placards and copies and duplicates thereof if required by the secretary of state.*

(4) *Such other duties arising under this chapter as the secretary of state by rule or order may direct. The secretary of state may adopt such rules and orders as he may deem necessary or convenient governing the manner of the discharge of the duties to which this section relates, and may alter them at pleasure.*

Sec. 6309-1. *For his services as deputy registrar of motor vehicles each county auditor shall be entitled to charge and retain a fee of twenty cents for each application for registration or duplicate registration received by him except as herein provided. All fees so retained shall be charged to and deducted from the state's share of the revenue as hereinafter provided. Each county auditor may employ such additional clerks for the purpose of assisting in the performance of his duties as such deputy registrar as may be necessary. The entire amount retained by him as fees under the provisions of this chapter shall be available for the payment of the compensation of such clerks without the necessity of any allowance thereof by the county commissioners or other authority.*

The secretary of state may direct any county auditor to deputize any specified responsible citizen or organization to aid in the discharge of the duties mentioned in the preceding section. Such sepcial deputies may receive applications for registration and collect fees and taxes, but shall immediately transmit to the county auditor the applications and moneys so received, and the county auditor shall perform all further duties mentioned in said section with respect thereto.

In all other respects such special deputies shall be authorized and required to perform the duties mentioned in said section for and on

behalf of the county auditor. Each such special deputy shall give bond to the county auditor in such amount as may be particularly prescribed by the secretary of state, conditioned for the faithful performance of said duties. Such special deputies shall receive no compensation, but the secretary of state may allow and pay all or such part of the actual and necessary expense incurred by any such special deputy as he may deem reasonable out of his appropriation for the expense of administering the provisions of this chapter. On all applications received by special deputies, the county auditor shall charge and retain a fee of five cents in lieu of the other fees provided by this section.

Sec. 6309-2. The revenue collected under the provisions of this chapter shall be distributed as follows:

(1) *All fees collected under this chapter less auditor's fees, shall be paid into the state treasury to the credit of a fund to be designated as the "State maintenance and repair fund."*

(2) *Fifty per centum of all taxes collected under the provisions of this chapter shall be for the use of the municipal corporation or county which constitutes the district of registration as provided in this chapter. Such moneys shall be paid into the treasury of the proper county as provided herein and distributed as are other taxes. In the treasuries of such municipal corporations and counties, maintenance and repair of improved roads and highways and streets such moneys shall constitute a fund which shall be used for the and for no other purpose, and shall not be subject to transfer to any other fund. "Maintenance and repair" as used in this section, includes all work done upon any improved road or highway, or upon any street, in which the existing foundation thereof is used as the sub-surface of the improvement thereof, in whole or in substantial part.*

(3) *Fifty per centum of all taxes collected under the provisions of this chapter, less auditor's fees retained, shall be paid by the secretary of state into the state treasury to the credit of the "State maintenance and repair fund."*

The "State maintenance and repair fund" provided for herein shall be available for the use of the secretary of state in defraying the expenses incident to carrying out and enforcing the provisions of this chapter and for the use of the state highway commissioner in the manner provided by law. The general assembly shall make appropriations therefrom for such purpose.

Sec. 6309-3. *All taxes remitted to the secretary of state by deputy registrars of motor vehicles, under the provisions of this*

chapter, from which the shares of the revenue due to particular counties or municipal corporations have not been retained, shall be apportioned by the secretary of state, who shall remit quarterly to the auditor of each county the amount thereof due to such county or to any municipal corporation located therein, in whole or in part, accompanied by a statement showing the distribution thereof. Such county auditor shall thereupon certify such amount into the county treasury to the credit of the undivided tax fund therein.

Sec. 12618. Whoever operates or drives a motor vehicle upon the highways of this state, displaying thereon a distinctive number or identification mark which is * * * fictitious, or belongs to another motor vehicle, *or belongs to a motor vehicle the ownership of which has been transferred after initial registration under such number or mark,* shall be fined twenty-five dollars, and for a subsequent offense shall be fined not less than fifty dollars nor more than three hundred dollars or imprisoned for sixty days or both.

Sec. 12618-1. *Whoever operates or drives upon the highways of this state a motor vehicle acquired from a former owner who has registered the same, displaying thereon the distinctive number or identification mark assigned to such motor vehicle on such original registration, shall be fined twenty-five dollars, and for a subsequent offense shall be fined not less than fifty dollars nor more than three hundred dollars or imprisoned for sixty days or both.*

Sec. 12618-2. *Whoever operates or drives a motor vehicle upon the highways of this state displaying thereon a distinctive number or identification mark belonging to a manufacturer or dealer, when such motor vehicle is not held by such manufacturer or dealer exclusively for sale, lease or other like disposition shall be fined twenty-five dollars, and for a subsequent offense shall be fined not less than fifty dollars nor more than five hundred dollars or imprisonment for sixty days, or both.*

Sec. 12618-4. *Whoever being the owner of a motor vehicle or a manufacturer of or dealer in motor vehicles, knowingly makes a false statement in an application for the registration of such vehicle or vehicles, shall be fined not less than twenty-five dollars and not more than two hundred dollars."*

Sec. 12618-3. *Whoever, being the owner of a motor vehicle and a resident of this state, operates or drives such motor vehicle upon the highways of this state displaying thereon a distinctive number or identication mark issued by or under the authority of another state without complying with the laws of this state relating to the registration and identification of motor vehicles shall be fined twenty-five dollars and for a*

subsequent offense shall be fined not less than fifty dollars nor more than five hundred dollars or imprisoned for sixty days or both.

Sec. 12620. Whoever, being the owner or chauffeur of a motor vehicle operated or driven upon the public roads or highways, failed to file or cause to be filed annually the application for registration required by law or to pay the * * * *tax* therefor, shall be fined not more than twenty-five dollars.

Sec. 12621. Whoever, being a manufacturer or dealer in motor vehicles, fails to file or cause to be filed an application for registration, as required by law, and to pay the * * * *tax* therefor and to apply for and pay the legal fees for as many certified copies thereof, as the law requires, shall be fined not more than twenty-five dollars.

SECTION 2. Original sections 6290, 6291, 6292, 6293, 6294, 6294-1, 6295, 6298, 6301, 12618, 12620, and 12621 of the General Code are hereby repealed.

This Act shall not affect the resigstration of motor vehicles for the year 1919.

JOINT RESOLUTION.

Proposing to amend the constitution of the state of Ohio by adopting a new section, to be designated as section 13 of Article VIII thereof, relating to the creation of bonded indebtedness.

Be it resolved by the General Assembly of the state of Ohio, three-fifths of the members elected to each house concurring therein:

That there shall be submitted to the electors of the state for their approval or rejection, in the manner provided by law, at the general election to be held on the Tuesday after the first Monday in November, nineteen hundred and twenty, a proposal to amend the constitution of the state of Ohio by adopting the following section, to be designated as section 13 of Article VIII thereof, and the schedule thereto appended:

ARTICLE VIII.

Section 13: The net bonded indebtedness of any subdivision of this state shall never exceed the limitations fixed by this section. Such net bonded indebtedness shall be the difference between the principal of bonds issued by the subdivision, with the exceptions mentioned herein, and the amount held in sinking funds and applicable to the retirement thereof. The limitations shall be the following percentages, to be computed in each case upon the assessed value of the taxable real property in the subdivision, exclusive of separately assessed mines, minerals and mineral rights: counties, two percentum; townships, one and one-half per centum; school districts, three per centum; municipal corporations, four and one-half per centum; other districts, including special taxing districts, one per centum.

The following bonds and sinking fund balances applicable thereto shall not be considered in ascertaining net indebtedness; those issued in anticipation of the levy or collection of special assessments, to the extent of the anticipated assessments against private property; those issued to acquire, construct or improve property from the use of which revenue is or is to be derived, in the proportion that the surplus revenue applied to interest and sinking fund during the preceding fiscal year, or, in case of original acquisition or construction, the surplus of anticipated annual revenue pledged to be so applied, bears to the interest and sinking fund requirements of such bonds; and emergency bonds issued for the replacement or restoration of property destroyed or injured by unforeseen casualty, or for defraying the expenses of an epidemic of disease, and

all amounts held in sinking funds for their retirement, in cases in which the general assembly may, by general laws, authorize the exclusion of such emergency bonds from consideration under this section; but the amount of such emergency bonds which may be so excluded from consideration shall not exceed in any case twenty-five per centum of the net bonded indebtedness of the sub-division at the time of the occurrence of the emergency and such excluded emergency bonds shall not run for more than eight years from their issuance.

No bonds issued for property or improvements shall run for a longer time than the probable period of usefulness of such property or improvements, and in no case longer than forty years from their issuance. Bonds for other purposes shall not run for more than eight years from their issuance.

All bonds hereafter issued beyond the limitations of this section shall be void. The general assembly may impose additional limitations upon the creation of public indebtedness, whether bonded or not.

SCHEDULE.

If the foregoing amendment shall be approved by the electors it shall take effect as a part of the constitution on the first day of January, nineteen hundred twenty-one. All bonds then outstanding, and all amounts then held in sinking funds for their retiremet, excepting the first two classes of excluded bonds and sinking fund balances mentioned therein, shall be considered in applying the limitations thereof; but if valid when issued such bonds shall not be impaired or otherwise affected thereby.

If, on the first day of January, nineteen hundred twenty-one, the net bonded indebtedness of any subdivision shall exceed the amount of such indebtedness which such subdivision may have under the limitations prescribed by the foregoing amendment, then and in that event the limitation for such subdivision shall be the amount of its net bonded indebtedness, ascertained as provided in said amendment, as of the first day of the fiscal year of the subdivision in which the limitation is applied, plus fifty per centum of the amount added to the sinking fund and applicable to the retirement of the bonds considered in ascertaining the limitation, during the next previous fiscal year; and such limitation shall continue to be applied to the net bonded indebtedness of such subdivision in the manner prescribed by such amendment until the net bonded indebtedness thereof becomes reduced to the amount of such indebtedness permitted by the strict application of the limitations of the foregoing amendment to such subdivision. For the purpose of increasing the sinking fund on account of such bonds, the taxing authorities of such subdivision may levy taxes upon the taxable property therein

in any year within the period in which the temporary limitation provided for in this schedule shall apply, in addition to such taxes as would be required to pay the interest and provide strictly for the sinking fund on account of such bonds; the rate of such levy shall not exceed one mill, but such levy shall not be subject to any statutory limitation on tax rates, nor be considered in applying any such limitation.

83RD GENERAL ASSEMBLY
REGULAR SESSION 1919

S. B. No. 202.

THE SPECIAL JOINT COMMITTEE ON TAXATION.

A BILL

Providing for the levy and distribution of taxes on the taxable property of the state for the support of common schools, the adjustment of tax limitations applicable to levies for local school and township purposes, the repeal of the laws relating to state aid for weak school districts, and the abolition of state levies for sinking fund, university and normal school purposes; and to such ends amending sections 5659-3a, 5649-4, 7575, 7582, 7587, 7595, 7596, 7597, 7600, 7603, 7613, 7736, 7747, 7751, and 7787 of the General Code, enacting a supplementary section to be designated as section 7600-1 of the General Code and repealing sections 3204, 7594-1, 7595-1, 7595-2, 7595-3, 7595-4, 7802, 7804, 7924, 7925, 7926, 7927a, 7927b, 7928, 7929, and 7986 of the General Code.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. Sections 5649-3a, 5649-4, 7575, 7595, 7596, 7597, 7600, 7603, 7613, 7736, 7747, 7751, and 7787 of the General Cade are hereby amended and a supplementary section to be designated as section 7600-1 of the General Code is hereby enacted as fallows:

Sec. 5649-3a. On or before the first Monday in June, each year, the county commissioner of each county, the council of each municipal corporation, the trustees of each township, each board of education and all other boards or officers authorized by law to levy taxes, within the county, except taxes for state purposes, shall submit or cause to be submitted to the county auditor an annual budget, setting forth in itemized form an estimate stating the amount of money needed for their wants for the incoming year, and for each month thereof. Such annual budgets shall specifically set forth:

(1) The amounts to be raised for each and every purpose allowed by law for which it is desired to raise money for the incoming year.

(2) The balance standing to the credit or debit of the several funds at the end of the last fiscal year.

(3) The monthly expenditures from each fund in the twelve months and the monthly expenditures from all funds in the twelve months of the last fiscal year.

(4) The annual expenditures from each fund for each year of the last five fiscal years.

(5) The monthly average of such expenditures from each of the several funds for the last fiscal year, and also the total monthly average of all of them for the last five fiscal years.

(6) The amount of money received from any other source and available for any purpose in each of the last five fiscal years, together with an estimate of the probable amount that may be received during the incoming year, from such source or sources.

(7) The amount of the bonded indebtedness setting out each issue and the purpose for which issued, the date of issue and the date of maturity, the original amount issued and the amount outstanding, the rate of interest, the sum necessary for interest and sinking fund purposes, and the amount required for all interest and sinking fund purposes for the incoming year.

(8) The amount of all indebtedness incurred under authority of section 5649-4 and the amount of such additional taxes as may have been authorized as provided in section 5649-5 of the General Code, setting out each issue in detail as provided in the next preceding paragraph.

(9) Such other facts and information as the tax commission of Ohio or the budget commissioners may require.

The aggregate of all taxes that may be levied by a county, for county purposes, on the taxable property in the county on the tax list, shall not exceed in any one year three mills. The aggregate of all taxes that may be levied by a municipal corporation on the taxable property in the corporation, for corporation purposes, on the tax list, shall not exceed in any one year five mills. The aggregate of all taxes that may be levied by a township, for township purposes, on the taxable property in the township on the tax list, shall not exceed in any one year * * * * *one and five-tenths* mills. The local tax levy for all school purposes shall not exceed in any one year * * * *three* mills on the dollar of valuation of taxable property in any school district. Such limits for county, township, municipal and school levies shall be exclusive of any special levy, provided for by a vote of the electors, special amendments, levies for road taxes that may be worked out by the taxpayers, and levies and assessments in special districts created for road or ditch improvements, over which the budget commissioners shall have no control.

Such budget shall be made up annually at the time or times now fixed by law when such boards or officers are required to determine the amount in money to be raised or the rate of taxes to be levied in their respective taxing districts.

The county auditor shall provide and furnish such boards and officers blank forms and instructions for making up such budgets.

Sec. 5649-4. For the emergencies mentioned in sections forty-four hundred and fifty, forty-four hundred and fifty-one, fifty-six hundred and twenty-nine, * * * and 7630-1 of the General Code, *and for local school purposes authorized by a vote of the electors under the provisions of sections 5649-5 and 5649-5a of the General Code, to the extent of two mills for such school purposes,* the taxing authorities of any district may levy a tax sufficient to provide therefor irrespective of any of the limitations of this *chapter.*

Sec. 7575. For the purpose of affording the advantages of a free education to all the youth of the state, there shall be levied annually a tax of * * * *one and seven-tenths mills* on the grand list of the taxable property of the state, to be collected as are other state taxes and the proceeds of which shall constitute "the state common school fund," and * * * *an additional tax of one mill, the proceeds of which shall be retained in the several counties for the support of the schools therein.*

Sec. 7582. The auditor of state shall apportion the state common school fund to the several counties of the state semi-annually, upon the basis of the enumeration of youth therein, as shown by the latest abstract of enumeration transmitted to him by the superintendent of public instruction; *provided, however, that the sum of five hundred thousand dollars shall be retained from such apportionment and held in the state treasury as a reserve in the state common school fund for the equalization of educational advantages throughout the state.* Before making his February settlement with county treasurers, he shall apportion such amount thereof as he estimates to have been collected up to that time and in the settlement sheet which he transmits to the auditor of each county, shall certify the amount payable to the treasurer of his county. Before making his final settlement with county treasurers each year he shall apportion the remainder of the whole fund collected, as nearly as it can be ascertained, and in the August settlement sheet which he transmits to the auditor of each county shall certify the amount payable to the treasurer of his county.

Sec. 7587. Such levy shall be divided by the board of education into four funds: First, tuition fund; second, building fund; third, contingent fund; fourth, bonds, interest and sinking fund. A separate levy must be made for each fund. *The levy for tuition fund to the extent of one mill shall be subject only to the limitation on the combined maximum rate for all taxes levied in the school district.*

Sec. 7595. *The state superintendent of public instruction shall administer the reserve in the state common school fund for the equaliza-*

tion of educational advantages throughout the state. The board of education of any school district may at any time between the first Monday in September and the first day of October of any year, apply to the state superintendent of public instruction for participation in such reserve. Such application shall be made in such form and shall set forth such information as the state superintendent shall prescribe. If it appears from such application that the revenue resources of the district are insufficient to enable the applicant board to conduct the schools thereof without participation in such reserve, the state superintendent shall cause an inspection of the schools of the district and the accounts of the applicant board. Upon such examination the state superintendent shall ascertain whether or not the proportion of pupils to teachers in the district is reasonable and proper, having regard to the topography and population of the district; the schedule of salaries paid to teachers is reasonable, the budget of contingent expenses and building enterprises is commensurate with the actual needs of the district; and the revenue resources of the district have been exhausted.

Sec. 7596. *If, upon such examination, the superintendent of public instruction is satisfied that any adjustments or changes in local school policy and administration should be made as a condition of participation in the reserve in the state common school fund, he may order such adjustments and changes to be made. For this purpose he shall have power to order any local board of education or any county board of education to exercise any power of whatsoever character in them vested by law, and such order shall be complied with forthwith.*

Sec. 7597. *After his orders have been complied with, the state superintendent of public instruction shall ascertain the probable amount required to supplement the revenues of such district in order to enable the board of education thereof to conduct the schools of the district and certify the same to the auditor of state. He shall thereafter, from time to time, within the amount so ascertained, and so long as his orders are complied with, draw his vouchers on the auditor of state for such sums as may be actually needed by such district. The auditor shall issue his warrants therefor payable out of any appropriation made by the general assembly from the reserve in the state common school fund. Any balance of such reserve remaining at the end of any fiscal year shall lapse into the state common school fund and be apportioned according to law.*

Sec. 7600. After each *semi*-annual settlement with the county treasurer, each county auditor shall immediately apportion school funds for his county. The state common school fund shall be apportioned *** *to* each school district *and part of district within* the county *** *on the*

basis of the number of teachers employed *therein, as shown by the reports required by law,* *** and the balance *** according to the *ratio which the aggregate days of attendance of pupils in such districts bears to the aggregate days of attendance of pupils in the entire county. The annual distribution attributable to teachers shall be according to the following schedule: twenty-five per centum of the salary of each teacher holding a regular certificate other than a temporary or emergency certificate and receiving a salary not less than eight hundred dollars: but not to exceed three hundred and fifty dollars for any such teacher.*

The proceeds of the levy required by section seven thousand five hundred and seventy-five to be retained in the county shall be apportioned to each school district and part of district on a like basis of teachers employed and aggregate days of attendance of pupils, excepting that the apportionment attributable to teachers shall be twelve and one-half centum of the salaries of such teachers as are mentioned in this section, but not to exceed one hundred and seventy-five dollars for any such teacher. No school district shall be entitled to receive any portion of the said funds in any year until the reports of number, salaries and qualifications of teachers employed and aggregate days of attendance of pupils have been made as required by law. The local school tax collected from the several districts *or parts of districts in the county shall* be paid to the districts from which it was collected. Money received from the state on account of interest on the common school fund shall be apportioned to the school districts and parts of districts within the territory designated by the auditor of state as entitled thereto on the *** *same basis on which the state common school fund is distributed. Seventy-five per centum of the amount of such interest so apportioned to any school district or of the amount of income from school lands apportioned thereto in any year shall be deducted from the amount of the apportionment of the state common school fund which such district would otherwise be entitled to receive and the amount so deducted shall be added to the amount of such fund apportionable among the remaining school districts and parts of districts entitled to share in the apportionment of such fund in the county in proportion to their respective shares in that fund: but such deduction and addition shall not exceed the amount of the state common school fund which such district would otherwise be entitled to receive.* All other money in the county treasury for the support of common schools and not otherwise appropriated by law, shall be apportioned annually in the same manner as the state common school fund.

Sec. 7600-1. *In cases in which any school funds are required to be distributed or apportioned to parts of school districts on the basis of number of teachers employed and aggregate attendance of pupils, the*

shares of such parts of districts shall be ascertained by taking the total enrollment of pupils residing in such parts of districts and comparing such enrollment with the total enrollment of pupils in the entire school districts; the proportion thus obtained shall be applied to the number of teachers employed in each whole school district and the aggregate days of attendance of pupils in each whole school district, respectively, and the result shall be considered the number of teachers employed in such parts of districts and the aggregate days of attendance of pupils therein, respectively.

Sec. 7603. The certificate of apportionment furnished by the county auditor to the treasurer and clerk of each school district must exhibit the amount of money received by each district from the state, the amount received from any special tax levy made for a particular purpose, and the amount received from local taxation of a general nature. The amount received from the state * * * *and the proceeds of the levy retained in the county under section seven thousand five hundred and seventy-five of the General Code,* and the common school fund shall be designated the "tuition fund" and be appropriated only for the payment of superintendents and teachers. Funds received from special levies must be designated in accordance with the purpose for which the special levy was made and be paid out only for such purpose, except that, when a balance remains in such fund after all expenses incident to the purpose for which it was raised have been paid, such balance will become a part of the contingent fund and the board of education shall make such transfer by resolution. Funds received from the local levy for general purposes must be designated so as to correspond to the particular purpose for which the levy was made. Moneys coming from sources not enumerated herein shall be placed in the contingent fund.

Sec. 7613. In any school district having a bonded indebtedness, for the payment of which, with interest, no provision has been made by a special tax levy for that particular purpose, the board of education of such district annually, on or before the thirty-first day of August, shall set aside from its revenue a sum * * * *sufficient in amount to provide a sinking fund for the retirement* of such indebtedness together with a sum sufficient to pay the annual interest thereon.

Sec. 7736. Such tuition shall be paid from either the tuition or the contingent funds and the amount per capita must be ascertained by dividing the total expenses of conducting the elementary schools of the district attended, exclusive of permanent improvements and repairs, by the total enrollment in the elementary schools of the district, such amount to be computed by the month. *In computing such total expenses of conducting the elementary school of such district, the amount of the state common school fund and the proceeds of the state school levy retained in the county, apportioned to such district on account of teachers employed in such elementary schools, and the amount of such funds apportioned thereto on account of aggregate days of attendance of pupils shall be deducted from the gross expenses of conducting such schools.* An attendance any part of a month will create a liability for the whole month.

Sec. 7747. The tuition of pupils who are eligible for admission to high school and who reside in rural districts, in which no high school is maintained, shall be paid by the board of education of the school district in which they have legal school residence, such tuition to be computed by the month. An attendance any part of the month shall create a liability for the entire month. No more shall be charged per capita than the amount ascertained by dividing the total expenses of conducting the high school of the district attended, exclusive of permanent improvements and repair, by the average monthly enrollment in the high school of the district.

In computing such total expenses of conducting such high school, the amount of the state common school fund and the proceeds of the state school levy retained in the county, apportioned to such district on account of teachers employed in such high school, and the amount of such funds apportioned thereto on account of aggregate days of attendance of pupils shall be deducted from the gross expenses of conducting such schools. The district superintendent shall certify to the county superintendent each year the names of all pupils in his supervision district who have completed the elementary school work, and are eligible for admission to high school. The county superintendent shall thereupon issue to each pupil so certified a certificate of promotion which shall entitle the holder to admission to any high school. Such certificates shall be furnished by the superintendent of public instruction.

Sec. 7751. Such tuition shall be paid from either the tuition or contingent funds and when the board of education deems it necessary it may levy a tax * * * for * * * *such purposes.* The proceeds of such levy shall be kept in a separate fund and applied to the payment of such tuition.

Sec. 7787. The board of education of each district shall make a report to the county auditor, on or before the first day of September in each year, containing a statement of the receipts and expenditures of the board, the number of schools sustained, the length of time they were sustained, the enrollment of pupils, the average monthly enrollment, and average daily attendance, *the aggregate days of attendance of pupils,* the number *and qualifications* of teachers employed, and their salaries, the number of school-houses and school rooms, and such other items as the superintendent of public instruction requires.

The board of education of a school district situated in two or more counties shall also report the enrollment of pupils residing in each county; and the board of education of a school district situated partly in an original surveyed township or other district of country entitled to an apportionment of the interest on the common school fund or to a dividend of the rents and profits of school lands shall report the enrollment of pupils residing in such original surveyed township or district of country.

The aggregate days of attendance of pupils in a school which is closed for more than five consecutive school days during the year on account of an epidemic of disease or other emergency requiring such closing shall be ascertained by multiplying the average daily attendance at such school by the number of days such school would have been in session, but for such emergency.

When a school district is situated in two or more counties, the reports required by law shall be made to the auditor of each county.

Sec. 2. Said original sections 5649-3a, 5649-4, 7575, 7582, 7587, 7595, 7596, 7597, 7600, 7603, 7613, 7736, 7747, 7751 and 7787 of the General Code and sections 3204, 7594-1, 7595-1, 7595-2, 7595-3, 7595-4, 7802, 7804, 7924, 7925, 7926, 7927, 7927a, 7927b, 7928, 7929, and 7986 of the General Code are hereby repealed.

Section 3. This Act shall take effect upon and with respect to the making of tax levies for the year nineteen hundred and twenty-one on the tax list made up in the year nineteen hundred and twenty, and all official acts with respect to such tax levies shall be governed thereby. This Act shall not affect the distribution of state aid to weak school districts for any part of the school year ending in the year nineteen hundred and twenty nor the amount of tuition payable by one school district to another for any part of such year, nor the distribution of income from school lands or interest on the common school fund for and on account of such school year, nor the collection and distribution of taxes levied on the tax list current when it takes effect, nor the inclusion in or exclusion from the limitation on the combined maximum rate for all taxes levied in a taxing district of any levy for any purpose other than such purposes as with respect to which section 5649-4 of the General Code is herein expressly amended.

83D GENERAL ASSEMBLY, REGULAR SESSION, 1919.

S. B. NO. 196

THE SPECIAL JOINT COMMITTEE ON TAXATION.

A BILL

Providing for levying and collecting an annual tax on the net incomes of persons residing in this state and for that purpose enacting Chapter 16 of Title I, Part Second of the General Code of Ohio, consisting of supplemental sections 5773-1 to 5773-42 inclusive thereof, amending section 5773-1 of the General Code and repealing section 1 of the act of May 10, 1910, 101 O. L. 399, designated as section 5445 of the General Code.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. Chapter 16 of Title I, Part Second of the General Code of Ohio, consisting of sections 5773-1 to 5773-42, inclusive, is hereby enacted as follows:

CHAPTER 16.

INCOMES OF PERSONS.

Sec. 5774-1. For the purpose of this chapter and unless otherwise required by the context:

(1) The word "commission" means the tax commission of Ohio.

(2) The word "taxpayer" includes any person, trust or estate subject to the tax imposed by this chapter, or whose income is in whole or in part subject to the tax imposed by this chapter and does not include corporations.

(3) The words "military or naval forces of the United States" include the marine corps, the coast guard, the army nurse corps, female, and the navy nurse corps, female, but this shall not be deemed to exclude other units otherwise included within such words.

(4) The words "taxable year" mean the calendar year, or the fiscal year ending during such calendar year, upon the basis of which the net income is computed under this chapter.

The words "fiscal year" mean an accounting period of twelve months ending on the first day of any month other than December.

(5) The word "fiduciary" means a guardian, trustee, executor, administrator, receiver, or any person whether individual or corporate, acting in any fiduciary capacity for any taxpayer.

(6) The word "paid" for the purpose of the deductions and exemptions under this chapter means "paid or accrued" or "paid or incurred", and the terms "paid or incurred" and "paid or accrued" shall be construed according to the method of accounting upon the basis of which the net income is computed, under this chapter. The term "received" for the purpose of the computation of net income under this chapter, means "received or accrued" and the term "received or accrued" shall be according to the method of accounting upon the basis of which the net income is computed under this chapter.

(7) The word "resident" applies only to natural persons and includes for the purpose of determining liability to the tax imposed by this chapter upon or with reference to the income of any taxable year, any person who shall, at any time within the first six months of the next succeeding year, be or become a resident of the state.

(8) The word "dividend" means any distribution made by a corporation out of its earnings or profits to its shareholders or members, whether in cash or in other property, excepting stock of the corporation.

(9) The words "foreign country" or "foreign government" mean any jurisdiction other than one embraced within the United States. The words "United States" include the states, the territories of Alaska and Hawaii and the District of Columbia.

(10) The term "net income" means the gross income of a taxpayer computed according to the provisions of this chapter, less the deductions herein allowed.

The definitions set forth in Chapter 1 of this title shall not apply for the purposes of this chapter.

Sec. 5773-2. An annual tax is hereby levied upon the net income of every resident of this state, at the rate of one per centum of the first four thousand dollars of such net income as defined in this chapter, over and above the exemptions herein provided for, and two per centum of the remainder, if any, of such net income. Seventy-five per centum of such tax shall be for the use of the general revenue fund of the municipal corporation or township in which the same originates, as defined in this chapter, and the remainder thereof shall be for the use of the general revenue of the state.

Sec. 5773-3. The net income shall be computed upon the basis of the taxpayer's annual accounting period (fiscal year or calendar year as the case may be) in accordance with the method of accounting regularly employed in keeping the books of such taxpayer. But if no such method of accounting has been so employed, or if the method employed does not clearly reflect the income, the computation shall be made upon such basis and in such manner as in the opinion of the commission does clearly reflect the income. If the taxpayer's annual accounting period is other than a fiscal year as defined in this chapter, or if the taxpayer has no annual accounting period or does not keep books, the net income shall be computed on the basis of the calendar year.

If a taxpayer changes his accounting period from fiscal year to calendar year, from calendar year to fiscal year, or from one fiscal year to another, the net income shall, with the approval of the commission, be computed on the basis of such new accounting period, subject to the further provisions of this chapter.

Sec. 5773-4. The term "gross income":

(a) Includes gains, profits and income derived from salaries, wages or compensation for personal service, of whatever kind and in whatever form paid, or from professions, vocations, trades, business, commerce or sales or dealings in property, whether real or personal, growing out of the ownership or use of or interest in such property; also from interest, rent, dividends, securities, or the transaction of any business carried on for profit, or gains or profits and income derived from any source whatever. The amount of all such items shall be included in the gross income for the taxable year in which received by the taxpayer, unless under the methods of accounting permitted in this chapter, any such amounts are to be properly accounted for as of a different period; but

(b) Does not include the following items which shall be exempt from taxation under this chapter:

1. The proceeds of life insurance policies and contracts paid upon the death of the insured to individual beneficiaries or to the estate of the insured.

2. The amounts received by the insured as a return of premium or premiums paid by him under life insurance, endowment or annuity contracts either during the term or at the maturity of the term mentioned in the contract or upon surrender of the contract.

3. The value of property acquired by gift, bequest, devise or descent (but the income from such property shall be included in gross income).

4. Interest on the obligations of the United States or its possessions; or securities issued under the provisions of the federal farm loan act of July seventeen, nineteen hundred and sixteen; or bonds issued by the war finance corporation; or the obligations of the state of Ohio or of any municipal corporation or political subdivision thereof heretofore issued; provided, that every taxpayer owning any of the obligations, securities, bonds or investments enumerated in this paragraph, shall, in the return required by this chapter, submit a statement showing the number and amount of such obligations, securities, bonds or investments

enumerated in this paragraph, and the income received therefrom, in such form and with such information as the commission may require.

5. Any amount received through accident or health insurance or under workmen's compensation acts, as compensation for death, personal injuries or sickness, plus the amount of any damages received whether by suit or agreement on account of such injuries or sickness, or through the war risk insurance act or any law for the benefit or relief of injured or disabled members of the military or naval forces of the United States.

6. Pensions received from the United States or from the state of Ohio or any subdivision thereof.

7. Salaries, wages and other compensation received from the United States by officials or employes thereof, including persons in the military or naval forces of the United States.

8. Income received by any officer of a religious denomination or by any institution, or trust, for moral or mental improvement, religious, Bible, tract, charitable, benevolent, fraternal, missionary, hospital, infirmary, educational, scientific, literary, library, patriotic, historical or cemetery purposes, or for the enforcement of laws relating to children or animals, or for two or more of such purposes, if such income be used exclusively for carrying out one or more of such purposes; but nothing herein shall be construed to exempt the fees, stipends, personal earnings or other private income of such officer or trust.

Sec. 5773-5. For the purpose of ascertaining the gain derived or loss sustained from the ownership, or the sale or other disposition of property, real, personal or mixed, the basis shall be first, the fair market price or value of such property as of the first day of the third taxable year preceding the year in which the gain or loss is computed, but not prior to January first, nineteen hundred and nineteen, and second, in case of property acquired within such period of three years or over and after said date ,the cost thereof; unless such property was acquired, in whole or in part, as a gift, devise, bequest or by descent, in which event such basis shall be the fair market value thereof as of the date of acquisition; but if, in either case, an inventory has been made in a previous year or years within such period, under authority of this chapter, and a value has been assigned to such property in such inventory for the purpose of computing the gross income of such year or years, the basis of such ascertainment shall be such inventory value so assigned to such property in the last previous year in which such inventory has been made and such value has been assigned.

Whenever a gain or loss is ascertained under this section on the basis of a value determined as of a date more than one year prior to the first day of the taxable year in which such gain or loss is computed,

it shall be conclusively presumed to have accrued uniformly during the taxable years so intervening, and the taxpayer, if he so elect, may file returns or amended returns for each of such taxable years, in which the proportional part of such whole gain or loss so attributable to such year shall be shown; and in such event only such part as is attributable to the year in which the computation is made shall enter into the gross income of that year and the assessments of the previous year or years shall be corrected accordingly in the manner provided in this chapter for the correction of errors; and if no such assessments have been made, and the returns for such year or years show taxable net income, or if the result of such correction is to increase any assessment previously made, an assessment of such net income or increase shall be made at the rates respectively applicable to such year or years, in the manner provided in this chapter for assessing omitted taxable incomes, but without notice.

Sec. 5773-6. When property is exchanged for other property, the property received in exchange shall for the purpose of determining gain or loss be treated as the equivalent of cash to the amount of its fair market value, if any; but if it has no ascertainable market value, then it shall be treated as cash to the amount of its estimated actual value.

Sec. 5773-7. In computing net income there shall be allowed as deductions:

1. All the ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business, including a reasonable allowance for salaries or other compensation for personal services actually rendered, and including rentals or other payments required to be made as a condition to the continued use or possession, for purposes of the trade or business, of property to which the taxpayer has not taken or is not taking title or in which he has no equity.

2. The same proportion of interest paid or accrued within the taxable year on indebtedness which the amount of gross income, as herein defined, bears to the gross amount of his income from all sources.

3. Taxes paid or accrued within the taxable year, imposed by or under authority of this State, excepting under this chapter, or by the United States, or any of its possessions, or any foreign governmen,t or by any other state, or territory, or any taxing subdivision of this or any other state or territory, not including special assessments on account of local benefits.

4. Losses sustained during the taxable year and not compensated for by insurance or otherwise, if incurred in trade or business or disclosed by the inventory.

5. Losses sustained during the taxable year of property not connected with trade or business or not disclosed by the inventory if aris-

ing from fires, storms, shipwrecks, or other casualty or from theft, and not compensated for by insurance or otherwise.

6. Debts due the taxpayer and ascertained to be worthless and charged off within the taxable year.

7. A reasonable allowance for the exhaustion, wear and tear of property used in the trade or business or included in the inventory including a reasonable allowance for obsolescence.

8. In the case of mines, oil and gas wells, other natural deposits and timber, a reasonable allowance for depletion and for depreciation of improvements, according to the peculiar conditions in each case, based upon cost including cost of development not otherwise included; provided, that in the case of such properties acquired prior to January first, nineteen hundred and nineteen, the fair market value of the property (or the taxpayer's interest therein) on that date shall be taken in lieu of cost up to that date; provided, further, that in the case of mines, oil and gas wells, discovered by the taxpayer on or after January first, nineteen hundred and nineteen, and not acquired as the result of a purchase of a proven tract or lease, where the fair market value of the property is materially disproportionate to the cost, the depletion allowance shall be based upon the fair market value of the property at the date of the discovery or within thirty days thereafter; such reasonable allowance in all the above cases to be made under rules and regulations to be prescribed by the commission. In the case of leases the deduction allowed by this paragraph shall be equitably apportioned between the lessor and lessee.

9. Contributions or gifts made within the taxable year to or for the use of the state or any of its subdivisions for exclusively public purposes or to or for the use of institutions exclusively for religious, charitable, scientific, or educational purposes, or for the prevention of cruelty to children or animals, the activities of which are carried on in whole or in substantial part within this state, and no part of the earnings of which inures to the benefit of any private stockholder or individual, to an amount not in excess of fifteen per centum of the taxpayer's net income as computed without the benefit of this paragraph. Such contributions or gifts shall be allowed as deductions only if reported under rules and regulations prescribed by the commission.

Sec. 5773-8. In computing net income no deduction shall in any case be allowed in respect of:

1. Personal, living or family expenses;

2. Any amount paid out for new buildings or for permanent improvements or betterments made to increase the value of any property or estate;

3. Any amount expended in restoring property or in making good the exhaustion thereof for which an allowance is or has been made; or

4. Premiums paid on any life insurance policy, covering the life of any officer or employe, or of any person financially interested in any trade or business carried on by the taxpayer, when the taxpayer is directly or indirectly a beneficiary under such policy.

5. Any expense not specifically enumerated in the next preceding section.

Sec. 5773-9. The following exemptions shall be allowed to any taxpayer:

1. In the case of a single person, a personal exemption of five hundred dollars, or in the case of the head of a family or a married person living with or contributing chiefly to the support of husband or wife, a personal exemption of one thousand dollars. A husband and wife living together shall receive but one personal exemption of one thousand dollars against their aggregate net income; and in case they make separate returns, the personal exemptions of one thousand dollars may be taken by either or divided between them.

2. Two hundred dollars for each person (other than husband or wife) dependent upon and receiving his chief support from the taxpayer, if such dependent person is under eighteen years of age or is incapable of self-support because mentally or physically defective.

3. A taxpayer receiving a salary, wages, or other compensation from the United States exempt from taxation under this chapter shall be entitled to only so much of the personal exemption provided for in this section as is in excess of the aggregate amount of such salaries, wages, or other compensation.

Sec. 5773-10. Individuals carrying on business in partnerships shall be liable for income tax only in their individual capacity. There shall be included in computing the net income of each partner his distributive share, whether distributed or not, of the net income of the partnership for the taxable year, or, if his net income for such taxable year is computed upon the basis of a period different from that upon the basis of which the net income of the partnership is computed, then his distributive share of the net income of the partnership for any accounting period of the partnership ending within the fiscal or calendar year upon the basis of which the partner's net income is computed. Taxpayers who are members of partnerships may be required by the commission to make a return stating the gross receipts and net gains or profits of the partnership for any taxable year. The net income of the partnership shall be computed in the same manner and on the same basis as provided in computing the net income of individuals except that the deduc-

tions provided in paragraph nine of section 5733-7 of the General Code shall not be allowed and the personal exemptions provided for in section 5773-9 of the General Code shall be allowed only to the individual partners.

Sec. 5773-11. The tax imposed by this chapter shall apply to the income of estates or of any kind of property held in trust, including:

1. Income received by estates of deceased persons during the period of administration or settlement of the estate;

2. Income accumulated in trust for the benefit of unborn or unascertained persons or person with contingent interests;

3. Income held for future distribution under the terms of the will or trust; and

4. Income which is to be distributed to the beneficiaries periodically, whether or not at regular intervals, and the income collected by a guardian of an infant to be held or distributed as the court may direct.

Sec. 5773-12. The net income of an estate or trust shall be computed in the same manner and on the same basis as provided in this chapter for individual taxpayers, except that there shall also be allowed as a deduction any part of the gross income which pursuant to the terms of the will or deed creating the trust, is during the taxable year paid to or permanently set aside for the state, or any political subdivision thereof, for exclusively public purposes or for any institution used exclusively for religious, charitable, scientific or educational purposes or for the prevention of cruelty to children or animals, the activities of which are carried on in whole or in substantial part in this state, and no part of the net earnings of which inures to the benefit of any private stockholder or individual; and in cases under paragraph four of the next preceding section, the fidudiary shall make return as provided in this chapter, including a statement of each beneficiary's distributive share of such net income, whether or not distributed before the close of the taxable year for which the return is made.

In cases under pargraphs one, two and three of the next preceding section, the tax shall be imposed upon the net income of the estate or trust and shall be paid by the fiduciary except that in determining the net income of the estate of any deceased person during the period of administration or settlement there may be deducted the amount of any income properly paid or credited to any legatee, heir or other beneficiary. In such cases, the estate or trust shall be allowed the same exemptions as are allowed to single persons under section 5773-9 of the General Code.

In cases under paragraph four of the next preceding section and in the case of any income of an estate during the period of administration

or settlement permitted by this section to be deducted from the net income upon which tax is to be paid by the fiduciary, the tax shall not be paid by the fiduciary, but there shall be included in computing the net income of each beneficiary his distributive share whether distributed or not, of the net income of the estate or trust for the taxable year, or, if his net income for such taxable year is computed upon the basis of a period different from that upon the basis of which the net income of the estate or trust is computed, then his distributive share of the net income of the estate or trust for any accounting period of such estate or trust ending within the fiscal year or calendar year upon the basis of which such beneficiary's net income is computed.

Sec. 5773-13. Every taxpayer having a net income for the taxable year of five hundred dollars or over if single or if married and not living with husband or wife, or of one thousand dollars or over if married and living with husband or wife, shall within forty days after the expiration of the taxable year make under oath a return stating specifically the items of his gross income and the deductions and exemptions allowed by this chapter; provided, however, that the county auditor may, for good cause, extend such time a specified number of days. If a husband and wife living together have an aggregate net income of one thousand dollars or over, each shall make such a return unless the income of each is included in a single joint return. If the taxpayer is unable to make his own return the return shall be made by a duly authorized agent or by the guardian or other person charged with the care of the person or property of such taxpayer.

Sec. 5773-14. Every partnership shall when required by the county auditor of the county wherein any partner resides, make a return for any taxable year, stating specifically the items of its gross income and the deductions allowed by this chapter, and shall include in the return the names and addresses of the individuals who would be entitled to share in the net income if distributed and the amount of the distributive share of each individual.

Sec. 5773-15. Every fiduciary (except receivers appointed by authority of law in possession of part only of the property of a taxpayer) shall make under oath of such fiduciary, if a person, or that of its president or secretary, if a corporation, a return of the amount of income received by the estate or trust, or for each beneficiary, stating specifically the items of the gross income and the deductions and exemptions allowed by this chapter. But such returns need not be made in cases under paragraphs one, two and three of section 5773-11 of the General Code unless the taxable net income of the estate or trust is five hundred dollars or over, nor in cases under paragraph four of said section, wherein

the entire income of the beneficiary or beneficiaries from all sources is received and administered by the fiduciary, unless the taxable net income of each beneficiary is five hundred dollars or over if single, or if married and not living with husband or wife, or one thousand dollars or over if married and living with or contributing chiefly to the support of husband or wife. Under such regulations as the commission may prescribe, a return made by one of two or more joint fiduciaries and filed in the office of the proper county auditor shall be sufficient compliance with the above requirement. Such return shall show the address of each beneficiary and contain a statement that the fiduciary has sufficient knowledge of the affairs of such beneficiary, estate or trust to enable him to make the return and that the same is, to the best of his knowledge and belief, true and correct. Fiduciaries required to make returns or statements under this chapter shall be subject to all the provisions of this chapter which apply to taxpayers.

Sec. 5773-16. Whenever in the opinion of the commission the use of inventories is necessary in order clearly to determine the income of any taxpayer, inventories shall be taken by such taxpayer upon such basis as the commission may prescribe, conforming as nearly as may be to the best accounting practice in the trade or business of the taxpayer and most clearly reflecting his income. Any taxpayer may, with the approval of the commission, use inventories in making his returns, and compute his taxable income upon the basis of such inventories, but the form of such returns shall be prescribed by the commission.

Sec. 5773-17. If a taxpayer, with the approval of the commission, changes the basis of computing net income from fiscal year to calendar year, a separate return shall be made for the period between the close of the last fiscal year for which return was made and the following December thirty-first. If the change is made from calendar year to fiscal year, a separate return shall be made for the period between the close of the last calendar year for which return was made and the date designated as the close of the last fiscal year. If the change is from one fiscal year to another fiscal year, a separate return shall be made for the period between the close of the former fiscal year and the date designated as the close of the new fiscal year. If a taxpayer making his first return for income tax keeps his accounts on the basis of a fiscal year, he shall make a separate return for the period between the beginning of a calendar year in which such fiscal year ends and the end of such fiscal year.

In all of the above cases the net income shall be computed on the basis of such period for which separate return is made, and the tax shall be paid thereon at the rate for the calendar year in which such period is included; and the exemptions allowed in this article shall be reduced

respectively to amounts which bear the same ratio to the full exemptions provided for as the number of months in such period bears to twelve months.

ADMINISTRATION.

Sec. 5773-18. The commission may designate such of its examiners, experts, accountants and other assistants as it may deem necessary for the purpose of aiding in the administration of the provisions of this chapter, which shall be deemed and held to be a law which the commission is required to administer for the purpose of sections 1465-9, 1465-12 to 1465-30 inclusive, 1465-32 and 1465-34 of the General Code. It shall be the duty of the commission in the administration of this chapter to supervise the work of the county auditors to the end that a uniform and effective enforcement of this chapter may be secured.

Sec. 5773-19. Each county auditor shall obey the orders and instructions of the commission, and make such reports to the commission as the commission may direct. He shall have all the powers of an agent of the commission for the purpose of administering the provisions of this chapter without the necessity of appointment as such.

Sec. 5773-20. Each county auditor shall appoint such number of deputies and other assistants for the purposes of this chapter and shall employ such clerks for such purposes as the commission may authorize, who shall severally receive such compensation as the commission may fix in the order authorizing such appointments or employments, which shall be subject to change at the discretion of the commission. The aggregate amount of compensation so fixed shall be a charge of the fee fund of the county auditor, notwithstanding the failure of the county commissioner to make an allowance or appropriation therefor.

Sec. 5773-21. Whenever in the judgment of the county auditor the income of any person in his county shall be subject to tax under this chapter, he shall require such person to make report of such time and in such manner and form as the commission may prescribe specifying particularly the amount of income received by himself, the amount of income received by his wife and each minor child residing with him as members of his family and such other information as the commission may deem necessary to enforce the provisions of this chapter.

Sec. 5773-22. Each taxpayer shall make the return required by this chapter to the county auditor of the county wherein he resides. Each fiduciary in cases under paragraphs one, two and three of section 5773-11 of the General Code shall make the return required by this chapter to the county auditor of the county wherein he resides, if a person, or wherein its principal place of business in this state is located.

if a corporation. Each fiduciary in cases under paragraph four of section 5773-11 of the General Code and every person making a return for any taxpayer shall make the return required by this chapter to the county auditor wherein the taxpayer resides; provided, that in such cases in which a fiduciary is administering a trust for the benefit of two or more taxpayers residing in different counties such return may be made in either of such counties.

Sec. 5773-23. A fiduciary applying to a court having jurisdiction for a discharge from his trust and a final settlement of his accounts, before his application shall be granted, shall file with the county auditor of the proper county a return of all income received in his representative capacity during the time between the last preceding January first and the date of his application for discharge and also similar returns of income received during each of the three next preceding calendar years as have not theretofore been filed. Upon the receipt of such returns, the county auditor shall immediately determine the amount of income tax due or to become due from such fiduciary and certify the amount or amounts to the court in which the application for the discharge is pending and the court shall make such order or direction as is necessary to provide for the payment thereof at the time of entering final judgment.

Sec. 5773-24. From returns, reports or statements made to him, or from any other facts or information coming to his knowledge, each county auditor shall determine the taxable net income of each taxpayer residing in his county and of each estate or trust the tax imposed on the income of which is to be paid by a fiduciary residing or having a principal place of business in his county, and shall compute the taxes thereon levied by this chapter. He shall make in duplicate separate alphabetical lists of names of taxpayers for each municipality and township in his county or in which any one of two or more joint fiduciaries one of whom has made return or report to him resides or has its principal place of business. Opposite each name on each of such lists he shall place the taxable net income and the amount of tax as assessed by him. The originals of such lists he shall place on file in his office or certify to the county auditor of any other county to which such lists pertain, on or before the first Monday in April annually, as to net incomes based on a taxable year ending between the first day of July and the first day of January, inclusive of the latter; and on or before the first Monday in October, as to such income based on a taxable year ending at any other time; provided, that any assessment of net income not completed in time to be so listed, or the collection of the taxes on which is stayed as provided in this chapter, shall be placed on the list first made up after the impediment is removed at the rate belonging to the taxable year for which the

assessment is made. The duplicate lists shall also be certified at such times to the county auditor of such other counties as to which such originals are certified. Each county auditor shall certify all duplicate lists in his possession to the county treasurer on or before the second Monday in May and on or before the second Monday in November, as the treasurer's duplicate of income taxes.

Any taxpayer may, at the time he makes his return as provided in this chapter, pay to the county auditor the tax on his taxable net income as disclosed thereby, and the county auditor may accept such payment, without prejudice to his power to assess such taxable net income at an amount in excess of that so disclosed and to charge the difference between the amount paid and the amount assessed on the tax list and duplicate as provided in this section. No charge shall be made on the income tax list and duplicate in respect of any tax received under authority of this paragraph but the county auditor shall certify the money so collected into the county treasury to the credit of the undivided tax funds therein, specifying the municipal corporation or township in which the tax originated, and such money shall be included in the next semi-annual settlement and distribution as provided in this chapter.

Sec. 5773-25. In case any partnership return or statement or any return or statement made by a fiduciary or other person acting for a taxpayer discloses to the county auditor to whom it is made the existence of net income of a taxpayer residing in another county, such county auditor shall determine the amount of such net income so disclosed, and certify the same, together with copies of so much of the return or statement and any other facts and information in his possession reflecting upon such amount, to the county auditor of the county wherein the taxpayer resides, for the use of such last mentioned county auditor in computing the taxable net income of such taxpayer.

Sec. 5773-26. In case the county auditor assesses the taxable net income of a taxpayer in an amount in excess of that set forth in any return voluntarily made under oath, he shall send a statement thereof, specifying the amount of the increase by first-class mail to the taxpayer or fiduciary making the return at the address given therein.

Sec. 5773-27. Any taxpayer feeling himself aggrieved by the assessment of his taxable net income may appeal therefrom to the common pleas court of the county wherein the collection is to be made. Such appeal shall be perfected by giving bond to the county auditor, with surety to the satisfaction of such auditor in double the amount of the taxes assessed, but not less than fifty dollars in any case conditioned for the performance of the decree and the payment of any costs which may be adjudged against him, and by filing a petition in such court; provided, how-

ever, that fiduciaries who have given bond according to law, appealing on their own behalf or on behalf of a beneficiary who is not competent to appeal, shall not be required to give such bond. Such petition shall set forth the amount of taxable net income if any which the appellant concedes to be legally assessable, and the amount of taxes conceded to be payable thereon, and tender payment of the latter. Such appeal may be perfected not later than the first Monday in May of any year as to assessments certified in April; and not later than the first Monday in November as to other assessments. Thereupon a writ shall issue commanding the county auditor who made the assessment, or his successor in office, within ten days thereafter to file with the clerk of such court the original return, report or statement of the taxpayer or fiduciary, together with all other papers and memoranda in his office bearing in any way upon the assessment. Upon the trial of the cause the averments of the petition shall be deemed to be in issue without answer and the assessment as made shall be deemed prima facie correct. Costs adjudged against the county auditor shall be paid in the manner prescribed by section five thousand seven hundred of the General Code, excepting that such costs shall be a charge against the state's share of the revenue arising under this chapter only. The remedy provided by this section shall be in lieu of all other proceedings to contest the amount of such taxes or to recover them back when paid.

Sec. 5773-28. Appeals under the next preceding section shall be given precedence on the docket of the common pleas court and heard and determined promptly, to the end that, if practicable all such appeals shall be disposed of prior to the next succeeding collection period.

Sec. 5773-29. An appeal under this chapter shall stay proceedings for the collection of the tax appealed from. The commission and the county auditor shall be parties to the appeal. If the court finds that the taxable net income is greater in amount than that conceded in the petition, the decree shall include in the amount of tax assessed interest thereon at the legal rate for any period of time that may have elapsed between the latest date at which the tax would have been payable, if no appeal had been taken, and the date of the decree. The county auditor shall correct the income tax lists and duplicate in the manner provided in this chapter if necessary in order to comply with the decree.

Sec. 5773-30. The county treasurer shall collect the taxes charged on the duplicates certified to him under this chapter at the next period for the collection of taxes assessed on personal property, and in the same manner as such personal property taxes are collected, excepting that the entire amount of taxes under this chapter shall be due and payable at one time. In making such collection, the county treasurer shall have and exercise all the powers, duties and remedies in him vested or imposed by law for the collection of such personal property taxes; provided, however, that the treasurer's power to proceed by distress or otherwise shall arise immediately at the close of the collection period herein referred to.

Sec. 5773-31. The county auditor shall have and exercise with respect to taxes delinquent under the provisions of this chapter, the powers and duties provided for in section five thousand six hundred ninety-four of the General Code, to be exercised, however, immediately after such semi-annual settlement, instead of annually, as therein provided. He shall certify the delinquent list made up after the February settlement on the fifteenth day of March, annually.

Sec. 5773-32. At each semi-annual settlement period the revenue arising under this chapter shall be distributed to the state and to the several townships and municipalities therein in the proportions fixed by this chapter in the same manner as personal property taxes are distributed, excepting that all fees shall be deducted from the state's share of the revenue.

Sec. 5773-33. The taxes collected under this chapter shall be deemed to originate in the city, village or township in which the taxpayer resides, unless the taxpayer is the estate of a deceased person, or a trust for accumulation and future distribution, in which event such taxes shall be deemed to originate in the city, village or township in which the fiduciary resides or had its principal place of business in this state. In case of joint fiduciaries of such estates or trusts such taxes shall be deemed to originate in the city, village or township in which each such fiduciary resides, in equal shares, according to the number of fiduciaries, and in such event the assessment of each share shall be separately made and certified to the proper counties as provided in this chapter. Where one or more of such joint fiduciaries reside outside of this state, the assessment shall cover the shares attributed to the fiduciary or fiduciaries residing in this state only, and the remaining shares shall not be taxed; but this provision shall not be deemed to apply to corporate fiduciaries organized by or under the laws of another state, but having a place or places of business in this state.

Sec. 5773-34. Whenever the county auditor shall have reason to believe that in any one or more of the three next previous years the returns made by any taxpayer were incorrect or have been made with intent to defraud, or when any taxpayer has failed or refused to make a return, report or statement as required by law, the assessor of incomes shall make such additions and corrections to the next assessment as he may deem true and just. Whenever the county auditor shall so increase or assess any income, he shall give notice in writing to the person liable

for the payment of the tax thereon of the amount of the assessment. Such notice may be served by registered mail. Omitted taxable incomes so added to the assessment of a subsequent year shall be subject to the rate belonging to the year or years in which they were taxable, and in case of fraud of wilful failure or neglect to twice such rate.

Sec. 5773-5. In addition to its power to require the furnishing of information in the form of returns made to it by companies, firms, corporations, persons, associations, co-partnerships or public utilities, which power is hereby specifically made applicable to the securing of information to enable the commission to carry into effect the provisions of this chapter, the commission may prepare interrogatories and blank forms to be attached to the forms of reports, statements or returns required by law to be made to any other state officer, board of commission for the securing of such information. Any such state officer, board or commission shall, upon request of the commission, attach such interrogatories and forms to the forms of such reports, statements or returns, and the persons, firms or corporations required to make such reports, statements or returns shall make specific answers to such interrogatories and fill out such blanks, and the same are hereby made a part of all such reports, statements or returns for all purposes. The information thus acquired shall be transmitted by the officer, board of commission to which the reports, statements or return is made to the commission for its use as provided in this section.

Sec. 5773-36. The county auditor may correct all errors and mistakes of a clerical nature which he discovers in the income tax lists and duplicates. If the correction is made after the duplicate is delivered to the treasurer, the correction shall be made on the margin of the income tax list and duplicate without changing any name or figure in the duplicate as delivered, or in the original tax list, which shall always correspond exactly with each other.

Sec. 5773-37. If at any time the auditor discovers that taxes under this chapter have been erroneously charged and collected, he shall call the attention of the ocmmission thereto. If the commission finds that such taxes have been so erroneously charged and collected, it shall order the proper county auditor to draw his warrant on the county treasurer in favor of the person paying them for the full amount of the taxes so erroneously charged and collected. The county treasurer shall pay such warrant from the general revenue fund of the county. At the next semi-annual settlement with the auditor of state after the refunding of such taxes, the county auditor shall deduct from the amount of taxes due the state the amount of such taxes that have been paid into the state treasury; and at the corresponding settlement between the county auditor

and the county treasurer the amount of such taxes that have been paid to any city, village or township shall be charged to and retained from the taxes then due such city, village or township. The amounts so retained shall be credited to the general revenue of the county. No such taxes shall be so refunded except as have been erroneously collected in the three years next prior to the discovery thereof by the county auditor.

Sec. 5773-38. The county auditor shall preserve in his office the original reports, statements and returns made to him for a period of three years, after which, unless otherwise ordered by the commission, they shall be destroyed.

Sec. 5773-39. All contracts or agreements whereby one person directly or indirectly assumes or promises to pay or bear the burden of any tax payable by another person under this chapter shall be illegal, null and void.

Sec. 5773-40. The prosecuting attorney of the county in which any action or proceeding authorized by this chapter is pending or in contemplation shall advise and represent any officer charged with the performance of any duty or invested with any power with respect thereto. Upon the written request of the commission, the attorney general shall appear and act for the commission or any of such officers in any such action or proceeding.

Sec. 5773-41. Whoever being a taxpayer having taxable net income in any year or being charged by law with the duty of making an income tax return in any capacity refuses to make a return at the time required by law or knowingly makes a false or fraudulent return shall be guilty of a misdemeanor and upon conviction thereof shall be fined not to exceed five hundred dollars, or be imprisoned not to exceed six months, or both.

Sec. 55773-42. Whoever, being a county auditor, or deputy, assistant, clerk, or other employe of a county auditor, divulges or makes known in any manner, except in accordance with an order of court or as otherwise provided by law the amount of income or any particulars set forth or disclosed in any report, statement or return required by or under this chapter, or permits any unauthorized person to have access to such reports, statements or returns, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than one thousand dollars and imprisoned not more than one year, or both, and shall forfeit his office or employment. Nothing in this section shall be so construed as to prevent the publication of statistics so classified as to prevent the identification of particular reports, statements or returns and the items thereof, or the inspection by the attorney general of the proper prosecut-

ing attorney of the report, statement or return of any taxpayer who has appealed, or agains whom a prosecution is pending under this chapter.

SECTION 2. Section 1465-1 of the General Code is hereby amended to read as follows:

Sec. 1465-1. *The tax commission of Ohio shall consist of four commissioners, not more than two of whom shall be of the same political party. Each commissioner shall hold his office for a term of six years beginning on the second Monday of February. The governor shall appoint the commissioners by and with the advice and consent of the senate.*

SECTION 3. Original section 1465-1 of the General Code, and section 1 of the act of May 10, 1910 (O. L. 399), designated as section 5445 of the General Code are hereby repealed.

SECTION 4. The several sections of the General Code and parts thereof enacted in section 1 of this act and the provisions of sections 5 and 6 hereof are hereby declared to be so far separate from and independent of each other that each of them would have been enacted without regard to the validity of any of the others, the intent and purpose of this act being to provide for the levy and collection of a tax on the incomes of persons residing in this state to the full extent that such tax may be constitutionally levied and collected, but no further, and to make such tax effective at the earliest possible date consistent with the constitution.

SECTION 5. This act shall not affect the terms of office of the members of the tax commission of Ohio, in office when it takes effect, nor the term for which any vacancy in any such membership shall be filled. Immediately upon the taking effect of this act, the governor shall appoint, in the manner provided in section 1465-1 of the General Code as amended herein, one member of the tax commission of Ohio for a term ending on the day preceding the second Monday of February, nineteen hundred and twenty-one. The successor of such appointee shall be appointed for the full term provided in said section.

SECTION 6. The tax levied by this act shall first be assessed and collected upon and with respect to net incomes for the calendar year nineteen hundred and nineteen. The first return under this act of a taxpayer keeping his accounts on the basis of the calendar year shall be made for the year nineteen hundred and nineteen within the period after January first, nineteen hundred and twenty prescribed by section 5773-13 of the General Code as herein enacted. The first return under this act of a taxpayer keeping his accounts on the basis of a fiscal year ending between the first day of July and the end of the calendar year shall be made within the same period, and shall be a separate return for the period between January first, nineteen hundred and nineteen and the end of such fiscal

year ending in the calendar year nineteen hundred and nineteen, subject to the requirements of section 5773-17 of the General Code as herein enacted. The first return of a taxpayer keeping his accounts on the basis of a fiscal year ending at any other time shall be made within the period after the of such fiscal year ending in the calendar year nineteen hundred and twenty, prescribed by section 5773-13 of the General Code as herein enacted and shall include the separate return prescribed by section 5773-17 of the General Code as herein enacted for the period beginning on January first, nineteen hundred and nineteen.

Date Due

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